

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re:	)	MPC 15-0203	MPC 110-0803
	)	MPC 208-1003	MPC 163-0803
David S. Chase,	)	MPC 148-0803	MPD 126-0803
	)	MPC 106-0803	MPC 209-1003
Respondent.	)	MPC 140-0803	MPC 89-0703
	)	MPC 122-0803	MPC 90-0703
	)		MPC 87-0703

**MOTION TO REINSTATE LICENSE AND TO DISMISS SUPERCEDING
SPECIFICATION OF CHARGES**

Respondent, David S. Chase, M.D., through counsel, hereby moves the Medical Practice Board (the “Board”) to reinstate his medical license and to dismiss the Superceding Specification of Charges with prejudice. In support of his Motion, Respondent relies upon the following incorporated Memorandum of Law and the Exhibits attached hereto. Respondent requests an expedited hearing on this Motion.

MEMORANDUM OF LAW

I. Introduction.

The sworn deposition testimony of the State’s star witness has established that the summary suspension of Dr. Chase’s license and the charges asserted against him were based on fraudulently obtained evidence that the Medical Practice Board’s investigator knew to be false at the time he presented it to the Board, in clear violation of Dr. Chase’s due process rights and notions of fundamental fairness. The constitutional violation committed by the Board’s investigator has been exacerbated by the State, which has requested third-party witnesses not to speak with Dr. Chase’s defense counsel without the State present, in direct violation of

applicable ethics rules and the Due Process Clause. In light of these serious and prejudicial violations, the Board must reinstate Dr. Chase's license and dismiss the charges against him.

In support of its Motion for Summary Suspension and its formal Specification of Charges, the State has relied heavily and explicitly on the affidavit of Amy Landry. That affidavit stated that Dr. Chase had: (1) intentionally "crafted records to force patients into cataract surgery;" (2) required his technicians to record results of patients' contrast sensitivity test results on "sticky notes" rather than in patients' charts; (3) placed a "script" in his exam room and gave "each patient the same spiel about cataracts;" and (4) falsified the chart of a former patient by misrepresenting that she wanted her cataracts removed.

However, testifying under oath, *Ms. Landry has now made clear that she never made any of these statements* and either *does not believe they are true* or *does not know them to be true*. Instead, she testified that the Board's investigator manufactured these allegations, placed them in an affidavit, and then obtained her signature on the affidavit by falsely informing her that the written statement was solely for his note-taking purposes and therefore she "did not have to worry about it being accurate." Ms. Landry told the Board's investigator on multiple occasions that the accusations attributed to her were incorrect. Nonetheless, the State proceeded to use Ms. Landry's false affidavit as the basis for its Motion for Summary Suspension, knowing that Dr. Chase would have no opportunity to cross-examine Ms. Landry or offer any evidence of his own at the summary proceeding. It then prominently featured Ms. Landry's falsified accusations in its Specification of Charges, where they remain, uncorrected, to this day.

In the meantime, the State has acknowledged requesting twenty-seven of its most important third-party witnesses not to speak with Dr. Chase's defense counsel outside the presence of an Assistant Attorney General. The State issued its requests on the Attorney

General's official letterhead stating: "[Dr. Chase's attorney] has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with anyone from [Dr. Chase's attorneys'] office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take." The State's request constitutes a violation of Vermont Rule of Professional Conduct 3.4(f), which clearly states: "A lawyer shall not request a person other than a client to refrain from voluntarily giving relevant information to another party" It is also a violation of Dr. Chase's due process rights to investigate and defend the charges against him, unimpeded by the wrongful interference of the State.

Unsurprisingly, the State's letters were effective in discouraging witnesses from speaking with Dr. Chase's defense team. As one witness put it when describing why the State's letter caused him to decline to be interviewed by Dr. Chase's attorneys: "I didn't think of [the State's written request] as an elective thing. . . . I mean it says the State of Vermont. They're telling me this is the right thing to do. That's why I did it." As a result of the State's interference, Dr. Chase has thus far been unable to determine whether other witnesses' prior statements were falsified by the Board's investigator, or to fully discover the other highly relevant information in these witnesses' possession, without the intimidating presence of State monitors.

By falsifying the sworn accusations against Dr. Chase, relying on those falsified accusations in a summary proceeding and effectively preventing Dr. Chase from interviewing the other third-party witnesses in this matter, the Board and the State have done much more than violate abstract ethical rules and constitutional rights: They have fatally damaged Dr. Chase's ability to investigate and defend against the State's Superseding Specification of Charges. The Board can remedy these fundamental defects in only one way: It must reinstate Dr. Chase's

license and dismiss the Charges. No other result will serve the ends of justice or reassure medical professionals and the public alike that the Board will not tolerate abuse of the powers entrusted to it, but will instead base its actions only upon lawfully obtained evidence and fundamentally fair proceedings.

II. Factual Background.

A. The State Moved To Summarily Suspend Dr. Chase's Medical License, Relying Primarily On The Affidavit Of Amy Landry.

On July 20, 2003, the State of Vermont moved to summarily suspend Dr. Chase's license to practice medicine. The State's Motion was predicated upon the purported allegations of three witnesses. First, the State cited the complaint of a former patient, identified as "Patient A," whom Dr. Chase had diagnosed with cataracts. Second, the State relied upon the statement of Dr. Patrick Morhun, a New Hampshire ophthalmologist, who disagreed with Dr. Chase's cataract diagnosis regarding Patient A. Third, and most importantly, the State relied upon the alleged sworn written statement of Amy Landry, one of Dr. Chase's former staff members, which alleged that Dr. Chase had purposefully falsified medical records to "force patients into cataract surgery." (Motion for Summary Suspension ("Motion") ¶ 20 (quoting Affidavit of Amy Landry ("Landry Aff."), attached hereto as Exhibit A, at 1).)

B. The State's Motion And Ms. Landry's Sworn Affidavit Contained Numerous Allegations Of Fraud On The Part Of Dr. Chase.

Ms. Landry's affidavit, and the Motion for Summary Suspension that relied upon it, contained numerous allegations that Dr. Chase had engaged in purposeful fraud. According to the State, Ms. Landry swore, among other things, that:

- (1) Dr. Chase had "crafted records to force patients into cataract surgery." (Motion ¶ 20; see also Landry Aff. at 1.)

- (2) “the results of [patients’ contrast sensitivity test (“CST”) results] were recorded on post-it paper,” (Motion ¶ 22), and “did not go in the chart.” (Landry Aff. at 2.)
- (3) Dr. Chase had a “script” in his exam room, (Motion ¶ 26; Landry Aff. at 2), and he gave his patients “the same spiel each time about cataracts.” (Landry Aff. at 2; Motion ¶ 25.)
- (4) Dr. Chase falsified the medical chart of Patient A, noting that the patient “wanted cataracts removed when she did not.” (Landry Aff. at 4.)

Without Ms. Landry’s putative accusations of purposeful fraud, the State’s Motion would have alleged little more than a difference of opinion between ophthalmologists regarding a cataract diagnosis and appropriate treatment options. However, based on the strength of Ms. Landry’s alleged statements, the State represented to the Board its belief that Dr. Chase had engaged in willful misrepresentation in treatments, willful falsification of reports or records, consistent improper utilization of services and non-accepted procedures, and immoral, unprofessional, or dishonest conduct, (Motion ¶ 34), and it requested the immediate and summary suspension of Dr. Chase’s license to practice medicine. (Motion at 8.)

C. The Board Summarily Suspended Dr. Chase’s License Based On Ms. Landry’s Allegations Of Fraud Without Allowing Dr. Chase To Call Or Cross -Examine Witnesses.

At the summary suspension hearing, at which neither party was allowed to call or cross-examine witnesses, Dr. Chase offered to voluntarily cease recommending or performing cataract surgeries until the State and the Board had completed their investigations. (Transcript of July 21, 2003 Hearing (“Hearing Tr.”), attached hereto as Exhibit B, at 16-18.) Explicitly relying on Ms. Landry’s affidavit, the State rejected Dr. Chase’s compromise offer, arguing that if Dr. Chase was “deliberately . . . fixing tests in order to . . . justify cataract surgery,” he may be willing to put his patients “at risk in other situations as well.” (Hearing Tr. at 21-22.) Board Member Nicol voiced agreement with the State’s reasoning in this regard. (Id.) Despite Dr. Chase’s

argument that it would be unwise for the Board to effectively destroy his medical career on the strength of the untested allegations contained in an affidavit by a single ex-employee, (*id.* at 16-17), the Board summarily suspended his license.

D. The State's Specification Of Charges And Superceding Specification Of Charges Reiterated The Allegations Contained In Ms. Landry's Affidavit.

On July 29, 2003, the State formally charged Dr. Chase with 180 counts of unprofessional conduct. In its Specification of Charges, the State reiterated verbatim the sworn allegations contained in Ms. Landry's affidavit as summarized in the Motion to Suspend. (Specification of Charges ¶¶ 26-35.) When the Specification of Charges was amended to include 471 counts on December 1, 2003, the allegations attributed to Ms. Landry were again set forth, verbatim, and featured prominently in the State's charging document. (Superceding Specification of Charges ¶¶ 414-423.)

E. Dr. Chase Sought To Interview The State's Witnesses, But The State Expressly Requested Those Witnesses Not To Speak With Dr. Chase's Attorneys Outside The Presence Of The Assistant Attorney General.

Pursuant to the Board's August 7, 2003 discovery order, the State identified the witnesses it intends to call at the hearing in this matter. Those witnesses included former patients and employees of Dr. Chase, as well as area ophthalmologists. Presumably, the State interviewed each of its identified witnesses regarding their likely testimony prior to placing them on the State's witness list. Dr. Chase was not invited to participate in those interviews.

On December 1, 2003, Dr. Chase's attorneys sent a letter to most of the State's identified witnesses, asking them if they would agree to be interviewed by Dr. Chase's defense team. (See December 1, 2003 Letters from Eric S. Miller to Witnesses, attached hereto as Exhibit C.) Immediately upon learning that Dr. Chase was attempting to set up interviews with third-party witnesses, the State sent its own letters to 21 of those same witnesses in an attempt to prevent Dr.

Chase's attorneys from privately interviewing them just as the State had previously done. (See December 4, 2003 Letters from Joseph Winn to Witnesses, attached hereto as Exhibit D.) The State's letters were sent on the official letterhead of the Office of the Attorney General of the State of Vermont and read in part as follows:

Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. ***The State requests that you not speak with anyone from his office in an informal interview.*** The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take.

(Id. (emphasis added).) In short, although the State had interviewed each of its witnesses privately, it explicitly requested that the potential third-party witnesses refuse to be interviewed by Dr. Chase's defense team, or to speak with the defense team at all outside of the context of a formal deposition at which the State could be present. (Id.)

Dr. Chase's attorneys immediately informed the State that it was improper to obstruct their access to third-party witnesses. (See December 11, 2003 letter from Eric S. Miller to Joseph Winn, attached hereto as Exhibit E.) The State ignored Respondent's warning and, on December 18, 2003, sent another set of six identical letters to its remaining witnesses, again requesting that they not speak with Dr. Chase's attorneys outside of the State's presence. (See December 18, 2003 Letters from Joseph Winn to Witnesses, attached hereto as Exhibit F.) In addition, the Board's investigator telephoned at least one of the State's key witnesses, Dr. Vincent DeVita, to reinforce the message set forth in the State's letter, stating, "[W]e consider you a witness for the State of Vermont, and we want to be present if you talk to anybody else." (Transcript of February 2, 2004 Deposition of Vincent J. DeVita, O.D. ("DeVita Dep."), excerpts of which are attached hereto as Exhibit G, at 123-24.)

The State's letters and telephonic admonitions had their intended effect. Numerous witnesses canceled their interviews with Dr. Chase's lawyers after receiving the State's letter. Predictably, after receiving the State's letter, most witnesses did not even respond to Dr. Chase's request to interview them. The subsequent deposition testimony of Dr. DeVita, who declined to respond to Dr. Chase's request for an informal interview, speaks volumes about the effect of the State's communications on its witnesses:

Q: How many times have you talked to [Board investigator] Mr. Ciotti total?

A: One face-to-face meeting.

Q: Okay. And how many phone calls?

A: Three phone calls. One phone call to set up the meeting, a phone call after the meeting because he said to me, *If anybody contacts you, another attorney wants to talk to you or anything like that, let me know, because we consider you a witness for the State of Vermont, and we want to be present if you talk to anybody else.* He told me that over the phone. And then -- I don't know. And maybe that was it. There was probably another phone conversation about something, but very -- nothing. You know, just --

Q: So Phil Ciotti called you to tell you that he didn't want you talking to other attorneys without the State present?

A: Yes.

Q: And did you tell him you'd honor that request?

A: *Yeah. I mean I -- when the authorities tell me what to do, I do it, unless I have another reason not to do it, I guess.*

Q: Especially when you're being regulated by the authorities, right?

A: Yeah, right. Right.

[...]

Q: Do you recognize that letter [sent by the Assistant Attorney General requesting that you not talk with Dr. Chase's attorneys]?

A: Yes.

[...]

Q: Again, fair to say that you decided to heed the Attorney General's request that you not speak with Attorney Miller or anyone from his office outside of their presence?

A: *Yeah, I decided to heed this. I thought -- I didn't think of it as an elective thing. I thought it was the right thing to do. I mean it says the State of Vermont. They're telling me this is the right thing to do. That's why I did it.*

(DeVita Dep. at 123-24, 176-77 (emphasis added).)

F. In Sworn Deposition Testimony, Amy Landry Testified That She Did Not Make Many Of The Statements Attributed To Her In Her Affidavit And That She Either Did Not Believe Them To Be True Or Did Not Know Them To Be True.

Effectively prevented from interviewing adverse witnesses outside of the State's presence, Dr. Chase deposed the State's star witness, Amy Landry, on December 22, 2003.¹ The State was represented at the deposition by an Assistant Attorney General. In her deposition, Ms. Landry testified that the Board's investigator had obtained her affidavit under false pretenses, that she did not make many of the statements attributed to her in her affidavit, that she had informed the Board's investigator that her affidavit contained falsities and inaccuracies, and that the State based its charges upon the allegations contained in her affidavit even after she informed the investigator that they were false.

¹ Although Amy Landry was deposed on December 22, 2003, she did not sign and return her deposition transcript until February 11, 2004. Immediately upon receiving Ms. Landry's signed transcript, Dr. Chase completed and filed the instant Motion.

1. The Board's Investigator Drafted Ms. Landry's Affidavit For Her During A Private Interview.

At her deposition, Ms. Landry testified that the Board's investigator came to interview her at her home on July 17, 2003. (Transcript of Dec. 22, 2003 Deposition of Amy Landry ("Landry Dep."), excerpts of which are attached hereto as Exhibit H, at 13-14, 32; Landry Aff. at 1.) During the interview, the investigator wrote his notes of the interview on an official Board of Medical Practice affidavit form, which he later asked Ms. Landry to sign. (Landry Dep. at 17-18, 32-33; Landry Aff. at 1-4.) As a result, Ms. Landry's "affidavit" was actually composed by the Board's investigator in the investigator's own handwriting. (Landry Dep. 32-33.)

2. Ms. Landry's Affidavit Materially Misrepresented Her Statements To The Board's Investigator.

In drafting Ms. Landry's affidavit, the Board's investigator materially misrepresented her testimony. In her deposition, Ms. Landry testified that she did not make many of the most serious allegations attributed to her, and that she either did not believe that those falsified statements were true or did not know if they were true.

a. Ms. Landry Did Not State Or Know That Dr. Chase Crafted Records To Force Patients Into Cataract Surgery.

As an initial matter, Ms. Landry specifically denied that she made the fundamental accusation attributed to her in her affidavit-- that Dr. Chase had "crafted records to force patients into cataract surgery," (Landry Aff. at 1):

Q: Did you tell Phil Ciotti that Dr. Chase "crafted records to force patients into cataract surgery"?

A: No.

....

Q: Is it fair to say that when you talked with Phil Ciotti, you didn't know one way or the other whether or not Dr. Chase had crafted records to force patients into cataract surgery?

A: Right. Yes.

(Landry Dep. at 20-21.)

b. Ms. Landry Had No Knowledge Regarding The Accuracy Of Patient A's Chart, And Did Not Testify That It Was Falsified.

Ms. Landry's Affidavit contains a specific allegation that "Dr. Chase wrote [in the medical chart] that [Patient A] wanted cataracts removed when she did not." (Landry Aff. at 4.) However, at her deposition, Ms. Landry confirmed that she played no role in the treatment of Patient A, was not present for any interactions between Patient A and Dr. Chase, and had no idea whether Patient A had indicated a desire for cataract surgery. (Landry Dep. at 47.) As a result, Ms. Landry did not know, and did not tell the Board's investigator, that Patient A did not want her cataracts removed:

Q: But you didn't tell Phil Ciotti that Dr. Chase [wrote that]. . . [Patient A] . . . wanted her cataracts removed when she did not, because you couldn't have known that, right?

A: Correct.

(Landry Dep. at 47-48, 49.)

c. Ms. Landry Did Not Allege Or Believe That CST Results Were Recorded On Post-It Paper.

Similarly, Ms. Landry testified that she did not tell Mr. Ciotti that "the results of [patients' CST tests] were recorded on post-it paper," as represented by the State, (Motion ¶ 22; see also Landry Aff. at 2):

Q: CST with BAT results did not go on Post-It notes?

A: No. No.

Q: And you did not tell Phil Ciotti that CST with BAT results went on Post-It notes?

A: No. No.

(Landry Dep. at 22.)

d. Ms. Landry Did Not State Or Believe That Dr. Chase Placed A “Script” In His Exam Rooms For The Benefit Of His Scribes.

Ms. Landry also directly refuted the State’s allegation, set forth in her affidavit and repeated in quotation marks² in the State’s charging documents, that Dr. Chase had a “‘script’ on an index card taped to [a] machine in the examination room for the benefit of the ‘scribe,’”

(Motion ¶ 26; Landry Aff. at 2):

Q: Did you tell Phil Ciotti that there was a script taped on an index card in the examination room?

A: No. I told him that there was information so that people like myself that did not scribe very much knew the points to put down in the chart when he was talking about cataract surgery to the patients.

Q: Is it accurate to portray that card as a script, in your opinion?

A: No.

(Landry Dep. at 25.)

Ms. Landry further testified that Dr. Chase did not require or request that she create or use the index card. (Landry Dep. at 26.) Rather, the supposed “script” that the State introduced in support of its Motion for Summary Suspension was created by her and written in her own handwriting. (Landry Dep. at 26.) She adopted the practice of using the card in order to ensure that she properly charted all of the important information regarding cataract symptoms, treatment,

² Importantly, in its Motion for Summary Suspension, as well as in both of its Specifications of Charges, the State placed quotation marks around the word “script” in recounting Ms. Landry’s purported allegations, thereby representing to the Board that she used this loaded word to describe the card. (See Motion ¶ 26; Specification of Charges ¶ 33; Superseding Specification of Charges ¶ 421.) As demonstrated below, she did not.

and informed consent that Dr. Chase properly conveyed to a cataract patient during the course of the examination. (See Landry Dep. at 25-26.) Ms. Landry confirmed that her use of her index card was not remotely improper:

Q: Did you think that there was anything wrong or unusual or unethical about using this card to help you chart during Dr. Chase's exams?

A: No.

...

Q: Did you think that the charges [against Dr. Chase] as you read them misrepresented the nature of this [index] card?

A: Yes.

(Landry Dep. at 28-29.)

e. Ms. Landry Did Not State That Dr. Chase Gave A "Spiel" To Cataract Patients.

In the same breath that it accused Dr. Chase of using a "script," the State alleged that, after examining his patients, Dr. Chase would "begin what Ms. Landry characterizes as a 'spiel' concerning the presence of cataracts." (Motion ¶ 25.) As support for this accusation, which is repeated verbatim in the Specification of Charges and the Superseding Specification of Charges, (see Specification of Charges ¶ 32; Superseding Specification of Charges ¶ 420), the State cites to Ms. Landry's affidavit, which also characterizes as a "spiel" the information Dr. Chase presented to cataract patients. (Landry Aff. at 2.) However, in her deposition, Ms. Landry expressly and unequivocally denied characterizing Dr. Chase's presentation as a "spiel":

Q: Did you tell Phil Ciotti that Dr. Chase made a spiel to cataract patients?

A: No. Not my wording.

Q: Is that a word that you use?

A: No.

(Landry Dep. at 23-24.) Moreover, Ms. Landry testified that she saw nothing improper with Dr. Chase's acknowledged practice of providing each cataract patient with a standardized list of the risks and benefits accompanying cataract surgery. (Landry Dep. at 207-08.) Indeed, she testified that, in her opinion, it would have been problematic if each patient had not received the same general information in this regard. (Landry Dep. at 208.)

3. The Board's Investigator Obtained Ms. Landry's Signature On The Affidavit Through Fraud And Misrepresentation.

At the conclusion of his interview with Ms. Landry, the Board's investigator asked her to read and sign the notes that he had prepared on the Board's affidavit form. (Landry Dep. at 33.) The investigator did not tell Ms. Landry that the document he had created was a sworn statement that could be used as evidence. (Landry Dep. at 34.) Instead, he told her that it was "just for his note-keeping purposes." (See Landry Dep. at 35.)

Upon reading the affidavit, Ms. Landry informed the Board's investigator that the affidavit did not accurately represent what she had told him in several respects, including its use of the words "crafted" and "script." (Landry Dep. at 33-35.) The investigator did not correct the affidavit or ask Ms. Landry to point out all of the inaccuracies it contained. (Landry Aff. at 35.) Rather, the investigator responded by saying "[t]hat this was his notes and that it was okay, that he was taking down the notes." (Landry Dep. at 34.) The investigator went so far as to tell her "that he was taking down notes as he wrote and that it was okay, that, you know, she didn't have to worry about it being accurate - exactly to [her] wording" (Landry Dep. at 34.)

4. Although Ms. Landry Again Told The Board's Investigator That Her Affidavit Was Inaccurate, The State Nonetheless Utilized Ms. Landry's Affidavit And Reiterated Her Allegations In Three Pleadings Filed With The Board.

As noted at the outset, although the Board's investigator knew that Ms. Landry's affidavit contained material falsehoods, the State nonetheless relied heavily upon it in successfully seeking the summary suspension of Dr. Chase's license. After the Motion for Summary suspension was granted, and that suspension was widely reported in the press, Ms. Landry again informed the Board's investigator that "the information [attributed to her] was inaccurate" and that she was "very upset." (Landry Dep. at 29-30.) The investigator responded by simply telling her that "everything was going to be okay." (Landry Dep. at 30.)

Once again the investigator did not ask Ms. Landry which portions of her affidavit were false or make any attempt to correct the misrepresentations contained in the Affidavit or the Motion for Summary Suspension. (Landry Dep. at 31.) Instead, in its July 29, 2003 Specification of Charges, the State reiterated verbatim the fraudulently obtained, falsified accusations attributed to Ms. Landry. (Specification of Charges ¶¶ 26-35.) The State again included the very same false and fraudulently obtained accusations in its December 1, 2003 Superseding Specification of Charges. (Superseding Specification of Charges ¶¶ 414-423.) Although Ms. Landry repudiated the false allegations in her December 22, 2003 deposition testimony, and once again privately informed the State of the many inaccuracies contained in the affidavit, (Landry Dep. at 202-03), the State has made absolutely no effort to rectify the fraud perpetrated upon the Board. Rather, it continues to rely upon Ms. Landry's falsified affidavit to justify the suspension of Dr. Chase's medical license and the charges pending against him.

III. Discussion.

The sworn testimony of Amy Landry, the State's own star witness, establishes that the Board investigator falsified evidence against Dr. Chase and knowingly misled the Board regarding the nature of Ms. Landry's testimony. This misconduct constitutes a serious and clear-cut violation of Dr. Chase's due process rights, has irreparably damaged his ability to a fundamentally fair proceeding, and has called into question the Board's ability to evenhandedly regulate the conduct of physicians. This prejudice has been compounded by the State's successful efforts to discourage third-party witnesses from speaking with Dr. Chase's defense team outside the presence of an Assistant Attorney General. The State's efforts to block Dr. Chase's access to witnesses is in direct violation of well-established due process rights and ethical rules and makes it impossible for Dr. Chase to adequately investigate and defend the allegations brought against him, including his ability to determine what other evidence has been falsified by the Board's investigative arm.

Because these due process and ethical violations are extraordinarily serious, highly prejudicial, and irreparable, the only appropriate remedy is to reinstate Dr. Chase's license and to dismiss the charges against him. No other result can begin to repair the damage done to Dr. Chase's rights and to the legitimacy of these and future Board proceedings.

A. By Falsifying Evidence And Presenting It To The Board, The Investigator Committed A Clear-Cut, Serious, And Highly Prejudicial Violation Of Dr. Chase's Due Process Rights.

1. The Due Process Clause Clearly Prohibits The Board From Charging Dr. Chase Based On Falsified Testimony.

If it were not for the actions outlined above, it would go without saying that Dr. Chase enjoys a constitutional right to Board proceedings that comport with the Due Process Clause of

the Fourteenth Amendment to the United States Constitution. See, e.g., Lowe v. Scott, 959 F.2d 323, 334-35 (1st Cir. 1992); Colorado State Bd. of Med. Examiners v. Colorado Ct. of App., 920 A.2d 807, 812 (Colo. 1996); see also Firman v. Department of State, 697 A.2d 291, 295 (Pa. Commw. Ct. 1997) (citing Arnett v. Kennedy, 416 U.S. 134 (1974) and Barry v. Barchi, 443 U.S. 55, 65 (1979)). Whether in an administrative or criminal context, the Due Process Clause prohibits the State from depriving a person of liberty or property based on falsified evidence. As the Supreme Court put it nearly a half-century ago: “[I]t is established that a conviction obtained through the use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment.” Napue v. Illinois, 360 U.S. 264, 269 (1959).³ Of course, a person need not wait to be convicted on the basis of false evidence before asserting a violation of his or her due process rights; to be formally **charged** with wrongdoing by the State on the basis of intentionally falsified evidence is also prohibited by the Constitution: “[T]he wrongfulness of charging someone on the basis of deliberately fabricated evidence is . . . obvious, and . . . the right to be free from such charges is a constitutional right.” Devereaux v. Abbey, 263 F.3d 1070, 1075 (9th Cir. 2001) (“[T]here is a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government.”); see also United States v. Melendez, No. 03-80598, 2004 WL 162937, at *7 (E.D. Mich. Jan. 20, 2004). Additionally, due process is offended “when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.” Napue, 360 U.S. at 269.

The Supreme Court has gone so far as to hold that the “principle that a State may not knowingly use false evidence” is so fundamental as to be “implicit in any concept of ordered liberty.” Napue, 360 U.S. at 269. Stated differently, without the fundamental guarantee that the

³ Napue, like most cases discussing allegations that the State fabricated evidence, is a criminal case. However, it is beyond dispute that the right to be free from charges based on evidence falsified by a representative of the State applies with equal strength in an administrative or quasi-criminal action such as this.

Board's investigative arm will not falsify evidence and rely on that evidence to charge Dr. Chase, all of Dr. Chase's other procedural and substantive rights are meaningless, and the Board's disciplinary proceedings are robbed of their integrity.

2. The Board's Investigative Arm Committed Egregious Violations Of Dr. Chase's Due Process Rights.

Nonetheless, Amy Landry's sworn deposition makes clear that the Board's investigative arm falsified Amy Landry's statements, used her falsified testimony to suit the pre-determined goals of its investigation, and thus undercut any claim to fairness that this proceeding may otherwise have had. The accompanying due process violations took several forms, each more egregious than the last.

First, the Board's investigator patently misrepresented Amy Landry's statements in the affidavit he drafted for her signature. As demonstrated above, Ms. Landry simply did not make many of the most serious allegations contained in that affidavit. (Landry Dep. at 22-29, 47-49.) To the contrary, she testified that she either did not believe them to be true, or did not know them to be true. (Id.) Ms. Landry's sworn deposition testimony is simply not susceptible of any other fair interpretation.

Second, the Board's investigator refused to take any steps to correct Ms. Landry's affidavit when Ms. Landry told him it was inaccurate. Ms. Landry informed the investigator at least two times that the affidavit he had drafted for her was incorrect—both before and after it was filed with the Board in support of the State's Motion for Summary Suspension. In the face of Ms. Landry's protest, the only responsible action available to the investigator was to review the affidavit with Ms. Landry, make the necessary corrections, and rectify any misstatements already made to the Board. However, on neither occasion did the investigator ask her which portions of her affidavit were incorrect. On neither occasion did he take steps to correct the affidavit. And

on neither occasion did he express any concern or remorse regarding his falsification, instead simply telling Ms. Landry that “everything was going to be okay.” (Landry Dep. at 30, 33-35.)

Third, in procuring Ms. Landry’s signature, the investigator purposefully deceived her by saying that the statement did not constitute her sworn testimony but was merely for his “note-keeping purposes.” Of course, this was far from the truth: In fact, Ms. Landry’s affidavit was sworn testimony that could, and was, used as ostensible support for devastating charges of professional misconduct against Dr. Chase. (Landry Dep. at 35.)

Fourth and most egregiously, notwithstanding the known falsities contained in Ms. Landry’s affidavit and the fraudulent manner in which that affidavit was obtained on no fewer than three occasions, the Board’s investigator nevertheless presented his notes to the Medical Practice Board as if those notes were an accurate representation of Amy Landry’s testimony. (See Motion ¶ 20-25; Specification of Charges ¶¶ 26-35; Superseding Specification of Charges ¶¶ 414-423.) Shockingly, although the State has been aware of Ms. Landry’s sworn deposition testimony for over one month, it has taken no steps to remove Ms. Landry’s falsified allegations from the Superseding Specification, where they remain, uncorrected, to this day. By failing to correct or withdraw Ms. Landry’s affidavit, or the formal allegations based thereon, the State is furthering the investigator’s fraud and is committing a due process violation of its own. See Napue, 360 U.S. at 269 (State must correct false evidence when it appears).

3. The Investigator’s Actions Seriously And Irreparably Prejudiced Dr. Chase.

The prejudice caused Dr. Chase by the Board’s investigative arm has been grievous and irreparable. On the explicit basis of Ms. Landry’s falsified allegations, the Board summarily suspended Dr. Chase’s license, inviting the print and television media to attend the summary suspension hearing. The predictable result of the Board’s very public suspension was the

destruction of Dr. Chase's long and distinguished medical career, the filing of numerous civil lawsuits by former patients seeking millions of dollars in damages, and the initiation of governmental investigations. In addition, neither Dr. Chase nor the Board may ever know the full extent of the investigator's fabrications in this matter, fatally compromising Dr. Chase's right to a fair hearing. The devastating effect of the investigator's fabrications on Dr. Chase's career and life, and on the fairness of these proceedings, cannot be overstated.

B. The State Violated The United States and Vermont Constitutions, As Well As Numerous Canons of Legal Ethics, When It Requested Witnesses Not To Talk To Defense Counsel Outside The State's Presence.

The prejudice caused Dr. Chase by the investigator's fabrications was exacerbated when, on at least two separate occasions, the State explicitly and successfully interfered with Dr. Chase's access to the State's witnesses, informing them: "Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take." The State's letter was a quintessential violation of pretrial ethics, as well as yet another established violation of Dr. Chase's due process rights.

1. Obstruction Of Another Party's Access To A Nonparty Witness Is A Violation Of Numerous Canons Of Legal Ethics.

Canons of legal ethics speak with a unified voice regarding the impropriety of interfering with a party's ability to interview witnesses having relevant information. Nowhere is this rule more clearly stated than in Rule 3.4 of the Vermont Rules of Professional Conduct:

A lawyer shall not request a person other than a client to refrain from voluntarily giving relevant information to another party. . . .

Vermont Rule of Professional Conduct 3.4(f) (emphasis added)

Numerous other procedural rules and canons of professional responsibility echo this sentiment, making the bar against obstructing access to witnesses one of the most universally accepted tenets of pretrial ethics:⁴

A prosecutor should not discourage or obstruct communications between prospective witnesses and defense counsel. . . it is unprofessional conduct for a prosecutor to advise any person to decline to give the defense information which the person has a right to give.

American Bar Association
Standards for Criminal Justice, § 3.1(c) (emphasis added)

A lawyer should not obstruct another party's access to a nonparty witness or induce a nonparty witness to evade or ignore process.

American College of Trial Lawyers
Code of Pretrial Conduct, Rule 7(c) (emphasis added)

State and federal courts applying these and similar ethics standards make clear that they are violated whenever the State advises, suggests, requests, or urges that witnesses not speak with opposing counsel outside the State's presence. "[T]he rule simply recognizes that, given the respect accorded [the State] by . . . witnesses, when such officials suggest that a witness not speak to the defense this may have the same practical effect as directly telling a witness not to do so." Davis v. State, 881 P.2d 657, 665 (Nev. 1994). For instance, in Gregory v. United States, 369 F.2d 185 (D.C. Cir. 1966), the State "instructed" witnesses that they were free to speak with anyone they liked, but "advised" those witnesses that they not speak with anyone about the case outside of the State's presence. Although the State had not explicitly forbid its witnesses from talking to the defense, the Court found that applicable rules were violated because witnesses were

⁴ In fact, this ethical rule has even been codified in the Vermont Rules of Criminal Procedure, which state: "Except as is otherwise provided as to matters not subject to disclosure and protective orders, neither the attorneys for the parties nor other prosecution or defense personnel shall advise persons having relevant material or information (except the defendant) to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor shall they otherwise impede opposing counsel's investigation of the case" Vermont Rule of Criminal Procedure 16.2(a) "Investigations Not To Be Impeded." Because the State and Federal governments are reportedly pursuing a criminal investigation of Dr. Chase, Rule 16.2's directives are not academic. The Board's letters to its witnesses have also had the effect of impeding Dr. Chase's right to defend himself against the reported criminal investigation(s) because all of the witnesses who received letters from the State have information relevant to those investigations as well.

effectively informed that they should not speak with defense counsel without the State present. Id. at 188; see also State v. Eugenio, 579 N.W.2d 642, 652-53 (Wis. 1998) (“A prosecutor should not discourage . . . communication between prospective witnesses and defense counsel.” (internal quotations omitted)). Here, the State went well beyond advising witnesses not to talk with Dr. Chase’s counsel or discouraging them from doing so. After warning them that Dr. Chase’s lawyers would be asking for an interview, it affirmatively and explicitly “requested” that they not speak with Dr. Chase’s attorneys unless the State was present. In so doing, the State clearly violated applicable rules of legal ethics.

2. The State’s Interference Also Constitutes A Due Process Violation.

The State’s ethics violation was not a meaningless technicality: Numerous courts have recognized that these rules are fundamental to a party’s due process right to a fair trial. As the Second Circuit unequivocally stated: “[W]e shall not tolerate the view that the government has some special right or privilege to control access to trial witnesses.” United States v. Hyatt, 565 F.2d 229, 232 (2d Cir. 1977). Similarly, in Gregory, the court reversed the defendant’s conviction and discussed at length the principles of fundamental fairness underlying these ethics standards:

[W]e know of nothing in the law which gives the prosecutor the right to interfere with the preparation of the defense by effectively denying defense counsel access to the witnesses except in his presence. Presumably the prosecutor, in interviewing the witnesses, was unencumbered by the presence of defense counsel, and there seems to be no reason why defense counsel should not have an equal opportunity to determine, through interviews with the witnesses, what they know about the case and what they will testify to. In fact, Canon 39 of the Canons of Professional Ethics makes explicit the propriety of such conduct: ‘A lawyer may properly interview any witness or prospective witness for the opposing side in any civil or criminal action without the consent of opposing counsel or party.’ Canon 10 of the Code of Trial Conduct of the American College of Trial Lawyers is an almost verbatim provision.

Gregory, 369 F.2d at 188 (emphasis added); see also Davis, 881 P.2d at 665-66 (dismissing charges with prejudice based on interference with defense counsel's right to interview witnesses outside State's presence).

3. The State's Actions Demonstrably Impeded Dr. Chase's Ability To Prepare His Defense.

The State's letters and telephone calls to witnesses have undeniably hindered Dr. Chase's ability to prepare his defense. As cogently demonstrated by Dr. DeVita's deposition testimony, the State's so-called "request" that its witnesses not speak with Dr. Chase's counsel---transmitted on the official letterhead of the Attorney General of the State of Vermont---was quite naturally interpreted by those witnesses as a directive that they not do so. (See DeVita Dep. at 123-24; 176-77.) The State has clearly urged witnesses not to treat both sides fairly; instead, the State has informed them that they should favor the State, but not Dr. Chase, with their cooperation. Nothing the Board or the State now says or does can disabuse these witnesses of their justifiable belief that the State does not want them talking to Dr. Chase's attorneys. See Davis, 881 P.2d at 666 (court cannot "unring the bell" of improper State request that witnesses not speak with defense counsel).

Moreover, the State's letter had the predictable effect of informing its witnesses that refusing to speak with Dr. Chase's defense team was "the right thing to do," (DeVita Dep. at 177), and that Dr. Chase's attorneys were somehow acting illegitimately in attempting to speak with those witnesses outside of the State's presence. The State has effectively informed the most crucial witnesses in this matter that the State is following the rules, but that Dr. Chase is not. As demonstrated above, nothing could be further from the truth. Nonetheless, the State's message further demonized Dr. Chase in the eyes of the witnesses in this matter, making it even more difficult for him to receive a fair hearing.

The facts and law allow only one conclusion: The letter written by the State to its witnesses was the very definition of the “government effectively denying defense counsel access to the witnesses except in [its] presence.” Gregory, 369 F.2d at 188. As a result, “the defendant [has been] denied that opportunity which . . . elemental fairness and due process require[] that he have.” Id.

4. The Fact That Dr. Chase May Depose The State’s Witnesses Does Not Cure The State’s Ethical And Due Process Violations.

The prejudice to Dr. Chase is not cured by the fact that he may eventually be able to depose the State’s witnesses. First, as noted above, the State’s letters and telephone calls had the effect of poisoning the witness pool against Dr. Chase. Second, questioning a witness in a formal deposition, with the parties, a court reporter, and an Assistant Attorney General present, is no substitute for the opportunity to speak with witnesses alone in an informal setting, without the State present to monitor every question posed by Dr. Chase (and attempting to glean from those questions information regarding his defense strategy) and to oversee every answer given by the witnesses. It is certainly for this very reason that the State did not invite Dr. Chase’s counsel to be present for its interviews with these witnesses. Third, the State has instructed its witnesses to schedule all depositions through the Attorney General’s office, rather than by responding directly to Dr. Chase’s requests for depositions. Although Dr. Chase has been requesting to depose the State’s witnesses for months, to date the State has made only two of its witnesses available for deposition. Finally, and most importantly, case law makes clear that due process absolutely entitles Dr. Chase to have the opportunity to interview witnesses “unencumbered by the presence” of the State. Gregory, 369 F.2d at 188. No number of depositions can justify the State’s wholesale evisceration of that constitutional right.

C. The Board Must Reinstate Dr. Chase's License And Dismiss The Specification Of Charges With Prejudice.

1. The Board Must Reinstate Dr. Chase's License.

The Board must reverse its decision to summarily suspend Dr. Chase's medical license because that suspension was based on putative testimony that Ms. Landry has now identified as falsified. Without Ms. Landry's explosive allegations of purposeful misconduct, the Board would have had no justification whatsoever for taking the draconian step of summarily suspending Dr. Chase's license before he had an opportunity to defend himself. Both the State and the Board admitted as much at the summary suspension hearing, justifying suspension by arguing, on the basis of the untested affidavit of a single witness, that if Dr. Chase was "deliberately . . . fixing tests in order to . . . justify cataract surgery," he may be willing to put his patients "at risk in other situations, as well." (Hearing Tr. at 21-22.) Indeed, now that Ms. Landry has made clear that the Board's investigator falsified her affidavit and caused the Board to act on the basis of lies, the Board, consistent with the very standard to which it held Dr. Chase, cannot take any action against Dr. Chase without first affording him an opportunity to cross-examine the State's witnesses at a full hearing on the merits of those charges. To use the State's language: If the Board's investigator deliberately "fixed" Ms. Landry's affidavit, as she has indicated in sworn deposition testimony, he may have been willing to "fix" the remainder of the evidence against Dr. Chase as well. To allow Dr. Chase's summary suspension to continue would be to hold the Board's own investigator to a standard lower than that applied to Dr. Chase and would call into serious question the fairness and integrity of the Board.

2. The Board Must Dismiss The Charges Against Dr. Chase.

The Board must also dismiss the Superseding Specification of Charges with prejudice. Although the dismissal of charges is a severe sanction, it is nonetheless appropriate "where the

government engaged in serious misconduct and such misconduct prejudiced the defendant[.]” United States v. McLaughlin, 910 F. Supp. 1054, 1057 (E.D. Pa. 1995). In light of this standard, it is unsurprising that courts have not hesitated to dismiss charges where those charges were based on purposefully falsified or purposefully misleading testimony—an extraordinarily fundamental, serious, and prejudicial due process violation.⁵ *“[I]n cases where over-zealous prosecutors have manipulated [the charging tribunal] by willfully misleading it or knowingly presenting false evidence, courts have not hesitated to exercise their power to dismiss [charges].”* United States v. Udziela, 671 F.2d 995, 998 (7th Cir. 1982)(emphasis added) (citing United States v. Samango, 607 F.2d 877 (9th Cir. 1979) (dismissing indictment due to government’s intentional suppression of favorable testimony); United States v. Martin, 480 F. Supp. 880 (S.D. Tex.1979) (dismissing due to failure to reveal both SEC agreement not to prosecute and alleged bribery scheme); United States v. Gold, 470 F. Supp. 1336 (N.D. Ill. 1979) (dismissing due to failure to divulge exculpatory evidence and other misconduct); United States v. Phillips Petroleum Co., 435 F. Supp. 610 (N.D. Okla.1977) (dismissing due to withholding of exculpatory testimony); United States v. Braniff Airways, Inc., 428 F. Supp. 579 (W.D. Tex.1977) (dismissing due to failure to present complete record of prior grand jury proceeding) among other reasons; United States v. DeMarco, 401 F.Supp. 505 (C.D. Cal.1975) (dismissing due to failure to disclose information vital to the grand jury’s informed and independent judgment); United States v. Gallo, 394 F.

⁵ Again, most of the cases discussing charges based on falsified testimony deal with indictments issued on the basis of false evidence presented to the grand jury by the State. Here, the Board acts as both grand jury and court in a disciplinary proceeding. When exercising its charging function, the Board reviews a proposed Specification of Charges, including factual allegations, drawn up by the Attorney General. If the Board determines that the allegations warrant a disciplinary proceeding, the Board Secretary signs and serves the Specification of Charges, thereby initiating the administrative prosecution. Board Rule 15.1(c). In this way, the Board is acting exactly as a grand jury acts in a criminal case: reviewing allegations of wrongdoing, determining if charges should be brought, and formally bringing those charges if appropriate. As a result, cases involving falsified or incomplete evidence to a grand jury are persuasive precedent, particularly because the Due Process Clause applies to administrative proceedings as well as criminal prosecutions. See, e.g., Lowe v. Scott, 959 F.2d 323, 334-35 (1st Cir. 1992); Colorado State Bd. of Med. Examiners v. Colorado Ct. of App., 920 A.2d 807, 812 (Colo. 1996); see also Firman v. Department of State, 697 A.2d 291, 295 (Pa. Commw. Ct. 1997) (citing Arnett v. Kennedy, 416 U.S. 134 (1974) and Barry v. Barchi, 443 U.S. 55, 65 (1979)).

Supp. 310 (D. Conn.1975) (dismissing due to selective presentation of evidence from a prior grand jury proceeding); United States v. Wells, 163 F. 313 (D. Idaho 1908) (dismissing because prosecutor expressed his opinion that defendants were guilty and that the grand jury should return an indictment against them)).

a. Dr. Chase Can No Longer Receive A Fair Hearing.

In such cases, dismissal is justified by one or both of two overriding concerns. First, “A motion for judgment of dismissal on the grounds of government misconduct . . . usually is grounded on the allegation that the defendant cannot receive a fair trial now or at any time in the reasonably foreseeable future and, thus, cannot be afforded due process of law.” United States v. Banks, 383 F. Supp. 389, 391 (D.S.D. 1974). Here, Dr. Chase’s ability to receive a fair hearing has been seriously and irreparably compromised. The Board’s investigator fraudulently obtained and falsified evidence, resulting in the highly public suspension of Dr. Chase’s medical license and an accompanying distortion of public opinion regarding his fitness to practice medicine. By falsifying Ms. Landry’s testimony, the investigator also called into serious question the accuracy of all other testimony and evidence he elicited from witnesses in this matter. Then, after charging Dr. Chase with 471 counts of unprofessional conduct, the State effectively prohibited Dr. Chase from investigating the charges against him through interviews of the most important witnesses. In so doing, the State also poisoned the witness pool against Dr. Chase, suggesting that he was acting illegitimately by exercising his due process right to request private witness interviews. It also prevented Dr. Chase from discovering other instances of falsified testimony, which may now never be uncovered.

As the Davis court recognized, nothing short of dismissal can repair the damage done by the State’s request that witnesses not speak with Dr. Chase. Because the witnesses have been told

that the State does not want them speaking with Dr. Chase's defense team outside of the State's presence, the chance that they will now do so is miniscule, even in the face of a curative instruction by the Board or the State. In addition, the witnesses have been left with the indelible but false impression that Dr. Chase, rather than the State, is abusing the Board's process. "The prospects of 'unringing the bell' . . . are sufficiently slight as to constitute a denial of due process even if" charges were reinstituted. Davis, 881 P.2d at 666. This is particularly true where, as here, the witnesses have also been tainted by their knowledge of falsified testimony. In light of these factors, there is no way that Dr. Chase can receive a fair hearing before the Board, either now or in the future.

b. Dismissal Is Necessary To Protect The Integrity Of The Board.

Second, dismissal is necessary in order to protect the integrity of the State's regulatory power and the legitimacy of the Board's proceedings, in both this and future cases. As Justice Brandeis stated:

Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.

Olmstead v. United States, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting). If the charges against Dr. Chase are allowed to stand and the Board's investigator and the State are allowed to act in violation of ethical rules and Dr. Chase's due process rights, neither Dr. Chase nor the public can have confidence that this or future Board proceedings will result in a fair adjudication

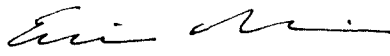
based on fact and law, rather than in a predetermined outcome motivated by illegitimate factors.
It is no overstatement to say that the integrity of the Board is at stake.

IV. Conclusion.

For the reasons discussed above, Dr. Chase respectfully requests that the Board reinstate his medical license and dismiss the Superseding Specification of Charges.

Dated at Burlington, Vermont, this 17th day of February, 2004.

SHEEHEY FURLONG & BEHM P.C.
Attorneys for DAVID S. CHASE, M.D.

By: 
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R. Jeffrey Behm
Ian P. Carleton
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P.O. Box 66
Burlington, VT 05402
(802) 864-9891

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re:	)	MPC 15-0203	MPC 110-0803
	)	MPC 208-1003	MPC 163-0803
David S. Chase,	)	MPC 148-0803	MPD 126-0803
	)	MPC 106-0803	MPC 209-1003
Respondent.	)	MPC 140-0803	MPC 89-0703
	)	MPC 122-0803	MPC 90-0703
	)		MPC 87-0703

EXHIBITS

Tab

- A. Amy Landry Affidavit
- B. July 21, 2003 Hearing Transcript (Excerpts, pp. 16-18, 21-22)
- C. December 1, 2003 Letters from Eric S. Miller to Witnesses
- D. December 4, 2003 Letters from Joseph Winn to Witnesses
- E. December 11, 2003 Letter from Eric S. Miller to Joseph Winn
- F. December 18, 2003 Letters from Joseph Winn to Witnesses
- G. February 2, 2004 Transcript of Dr. Vincent DeVita (Excerpts, pp. 123-24, 176-77)
- H. December 22, 2003 Transcript of Amy Landry Deposition (Excerpts, pp. 1-49, 201-210, redacted to remove patient names)

STATE OF VERMONT
MEDICAL PRACTICE BOARD

COPY

IN RE:)
)
DAVID S. CHASE) CASE NO. MPC 15-0302
)

D E P O S I T I O N

- of -

VINCENT J. DEVITA, OD

taken by counsel on behalf of Dr. Chase on Monday,
February 2, 2004, at the offices of Sheehey,
Furlong & Behm, Burlington, Vermont,
commencing at 1:00 p.m.

APPEARANCES:

ON BEHALF OF THE STATE OF VERMONT:

JOSEPH L. WINN, ESQUIRE
Office of Attorney General
109 State Street
Montpelier, Vermont 05609

ON BEHALF OF DR. CHASE:

ERIC S. MILLER, ESQUIRE
Sheehey, Furlong & Behm
30 Main Street
Burlington, Vermont 05402-0066

ALSO PRESENT: DR. DAVID CHASE; BRIANNE CHASE

DARLENE G. LITTLEFIELD
COURT REPORTERS ASSOCIATES
117 BANK STREET
BURLINGTON, VERMONT 05402
(802) 862-4593

1 to be recorded. And he just interviewed me.

2 Q. Is that the meeting he set up in that initial phone
3 call?

4 A. Yes.

5 Q. Okay. Did you have any other face-to-face meetings
6 with Phil?

7 A. No.

8 Q. Did you have any other substantive telephone
9 conversations with --

10 A. No, no substantive telephone conversations.

11 Q. How many times have you talked to Mr. Ciotti total?

12 A. One face-to-face meeting.

13 Q. Okay. And how many phone calls?

14 A. Three phone calls. One phone call to set up the
15 meeting, a phone call after the meeting because he said to
16 me, If anybody contacts you, another attorney wants to talk
17 to you or anything like that, let me know, because we
18 consider you a witness for the State of Vermont, and we want
19 to be present if you talk to anybody else. He told me that
20 over the phone. And then -- I don't know. And maybe that
21 was it. There was probably another phone conversation about
22 something, but very -- nothing. You know, just --

23 Q. So Phil Ciotti called you to tell you that he didn't
24 want you talking to other attorneys without the State
25 present?

1 A. Yes.

2 Q. And did you tell him you'd honor that request?

3 A. Yeah. I mean I -- when the authorities tell me what to
4 do, I do it, unless I have another reason not to do it, I
5 guess.

6 Q. Especially when you're being regulated by the
7 authorities, right?

8 A. Yeah, right. Right.

9 Q. What did Phil Ciotti tell but the nature of the
10 investigation to date when you met with him that one time?

11 A. The nature of the investigation?

12 Q. What he had learned to date. What did he tell you?

13 A. What he had learned? He had confiscated records from
14 Dr. Chase's office, and he said that in his record -- in
15 those records they found -- I don't know what they found.
16 You know, that's an interesting question. I don't know. I
17 just know he had a whole bunch of records, and he had a
18 bunch of questions for me, and I answered those questions.

19 Q. So at the meeting, the first meeting you had with him,
20 he had records that had been taken from Dr. Chase's office?

21 A. I believe he did.

22 Q. He told you he did?

23 A. Maybe I'm wrong. I don't know.

24 Q. You met with him --

25 A. I don't --

1 short and to the point?

2 A. You know, I don't remember truthfully whether he said
3 that or not, but it's a problem I have. I just can't do
4 that. I do the best I can to keep them short. I tend to
5 talk a lot.

6 Q. I'm going to show you what we'll mark as Deposition
7 Exhibit 6.

8 (Deposition Exhibit No. 6 was marked for
9 identification.)

10 Q. Do you recognize that letter?

11 A. Yes.

12 Q. You --

13 A. It's got James Devita on there. I remember calling and
14 correcting it. It also says "Dear Mr. Devita."

15 Q. You said -- did you get this at about the same time you
16 received a phone call from Mr. Ciotti asking you not to
17 speak with us outside of the Attorney General's presence?

18 A. Mr. Ciotti talked to me very briefly -- very briefly
19 and shortly after the initial meeting about that. I don't
20 remember whether he called me in relation to this --
21 somebody called me and said you're going to get a subpoena,
22 I think it was. I really don't know who it was.

23 Q. Again, fair to say that you decided to heed the
24 Attorney General's request that you not speak with Attorney
25 Miller or anyone from his office outside of their presence?

1 A. Yeah, I decided to heed this. I thought -- I didn't
2 think of it as an elective thing. I thought it was the
3 right thing to do. I mean it says the State of Vermont.
4 They're telling me this is the right thing to do. That's
5 why I did it.

6 MR. MILLER: Let's just take 60 seconds, I'll
7 make sure there's nothing I need to swing back over and
8 cover really quickly, okay?

9 (A brief break was taken from 5:33 p.m. to
10 5:36 p.m.)

11 Q. Going back very briefly to the purpose -- you met with
12 Brianne and Steven Green prior to your termination, and your
13 recollection is that you brought up the issue of Dr. Chase's
14 chairside manner?

15 A. Yes, I did.

16 Q. And it was very uncomfortable?

17 A. Yes, I remember that. It was uncomfortable.

18 Q. Do you recall who called that meeting and what the
19 stated purpose of that meeting was?

20 A. No, I don't remember who called it, and I don't
21 remember the stated purpose of that meeting.

22 Q. Do you recall that Steven Green called the meeting to
23 talk about your attendance record?

24 A. Talked about my time off at the office, yes. I
25 remember that now, yes.



State of Vermont
Board of Medical Practice

NAME: Amy M. Landry DOB: 11-8-71

ADDRESS: 119 Ira Allen Ct. Colchester, VT 05446

HOME PHONE: _____ WORK PHONE: _____

PLACE OF BIRTH: Burlington, VT

I Amy M. Landry, hereby swear under the penalty of perjury (not more than 15 years, not more than \$10,000.00 or both) that the following facts are true to the best of my knowledge and belief.

I worked for Dr. Chase for the past 11 months. I left last Friday. I left because I was unhappy with Dr. Chase. I didn't like his work ethics. I didn't like the way he treated patients and employees. He was a nasty person to work for. He told me I was unemployable. He asked why I couldn't be "normal" like the others. He was very particular about record keeping. It was hard to figure out how he wanted to keep records. It was meticulous. I felt he created records to force patients into cataract surgery. He made the technician put CPT with BAT tests in the place where swelling results would go. However, the way this would occur is the Techs. would write results on a yellow

Subscribed and sworn to before me on this

_____ day of _____ 20____

X JML
Affiant

[Signature]
Notary Public

17 JUL 03
Date



State of Vermont
Board of Medical Practice
STATEMENT CONTINUED

sticky note. Then we go through the rest of the exam. So the Snellen goes on a sticky. Refraction goes on a sticky. They are corrected down to their best visual acuity. Then they are given a CST with BAT. That result ~~is~~ goes on ~~a sticky~~ ^{CST with BAT}. (The policy was average 35 and over that did not go have prior cataract surgery. The results did not go in the chart. It went on a sticky).

At this point we are done with all of the tests, Dr. Chase comes in. He goes over the chart. If the CST with BAT isn't bad, he'll ask the Tech ~~to do another CST with BAT~~ to do another CST with BAT and the eyes are already now dilated. These results are ALWAYS going to be bad. He takes these results and records it under the visual acuity.

So now he just starts leaning into a "slit lamp" exam and he starts saying "Dense Central Nuclear Cataract OU" to the scribe. This is before he can even see anything! He also sometimes says "I know I see a cataract." He has a "script" for us on an index card. This is kept in the scribe room (Exam room). It is taped on to the machine. He has this ~~script~~ for the scribe because he gives the same spiel each time about cataracts.

Subscribed and sworn to before me on this

day of

20

Amc

Affiant

PJC

Notary Public

17 JUL 2003

Date



State of Vermont

Board of Medical Practice
STATEMENT CONTINUED

So we can just look at the index card and record on the chart what it says. There is a big push for surgery UNTIL he had his 9 scheduled for the week but then it is not as bad. Prior to that it seems EVERY patient in the target group gets told they have cataracts.

In his general speech about cataracts he tells EVERY patient "you don't need a second opinion, I'm going to GIVE you a second opinion." The speech about cataracts is verbatim almost every time. If a question gets inserted he sometimes starts over from the beginning like it broke his train of thought and he needed to start from the beginning.

I know he operates unethically. The other Teds and I would frequently "visit" to Dr. Devita. We would try to steer patients to him when we could because I think he's a good Dr. He wanted to talk to Steve Green to get this to stop but I heard he got laid off so I don't think it helped. We all saw this was wrong. We brought the concerns to his wife because she is CEO. She said he's set in his ways. She has made him come in to apologize to employees for things but she wasn't awarded enough to make any real effect.

Subscribed and sworn to before me on this

day of

20

Amel

Affiant


Notary Public

17 JUL 03

Date

Mailing Address:
109 State Street
Montpelier, VT 05609-1106
Tel.: (802) 828-2673
Fax: (802) 828-5450



State of Vermont

Board of Medical Practice
STATEMENT CONTINUED

Office Location:
One Prospect Street
Montpelier, VT 05602

The Techs would frequently talk amongst each other about. Almost daily. It was a joke but it wasn't. If an elderly patient came in with no vision problems, didn't drive, maybe a regular check-up or have their glasses checked we would say, watch, they'll be told they have cataracts and sure enough they would get told that.

Dr. Devita used to tell patients that even if they had slight cataracts if they weren't a real problem they could live with them. Dr. Chase got wind of that and there was an argument over it. I know Dr. Devita had a meeting with Mrs. Chase and Steve Green and told them he thought things were wrong and unethical. But he got hanged off.

On [redacted] chart I saw where he fudged the swelling and CST with BAT results. Dr. Chase wrote that she wanted cataracts removed when she did not. He also had it noted that HE gave a bad opinion. That language on the chart is what is on the script given to the Techs.

Another concern I've had was I've seen or at least two occasions he removed lesions or cysts on eyelids. He never sent those tissues in for pathology to check for cancer, and I never thought that was right.

Subscribed and sworn to before me on this

17 day of July 2003

X Amy Marie Landry
Affiant

Notary Public

Date

17 JUL 03

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

IN RE:
DAVID S. CHASE
DOCKET NO.: MPC 15-0203

MOTION FOR SUMMARY SUSPENSION

held on Monday, July 21, 2003,
at the Vermont State Treasurer's Office,
133 State Street, Montpelier, Vermont.

PHILLIP CYKON, ESQ. - PRESIDING OFFICER

HEARING COMMITTEE:

Katherine M. Ready, Public Member
John B. Webber, Esq., Public Member
Hon. Hilton H. Dier, Jr., Public Member
James D. Cahill, M.D. (Via Telephone)
Katherine A. Silta, P.A. (Via Telephone)
Sharon L. Nicol, Public Member (Via Telephone)

APPEARANCES:

JOSEPH L. WINN, ESQ., of the Vermont Attorney
General's Office, 109 State Street, Montpelier,
Vermont, appeared and represented the State.

ERIC S. MILLER, ESQ., of the firm Sheehey, Furlong
& Behm, P.C., 30 Main Street, Burlington, Vermont,
appeared and represented the Respondent.

ALSO PRESENT: Elizabeth A. Turner, M.D., J.D.
Phil Ciotti
John Howland
Gloria Hurd
Peggy Langlais
David S. Chase, M.D.
James Arisman, Esq.
Stuart Chase
Gail Westgage

COURT REPORTER: Johanna Masse, RMR, CRR

GREEN MOUNTAIN REPORTERS
P. O. Box 1311
Montpelier, VT 05601
(802) 229-9873

1 summarily suspend Dr. Chase's license to
2 practice medicine.

3 As you're well aware, 26 VSA 1361
4 allows the Board to take actions that are
5 considerably lesser than full suspension.
6 You can tailor the remedy to fit the need.
7 Here we're only here on this question of
8 imminent and emergency harm to the public,
9 and as a result, we believe that to the
10 extent the Board takes any action, it should
11 limit and indeed has to limit its action to
12 what the statute requires, which in this
13 instance would limit Dr. Chase from
14 scheduling further surgeries, from performing
15 further surgeries. But you can't, I believe,
16 under the statute allow allegations of
17 substandard care to influence your decision
18 to suspend, fully suspend, his license today
19 without any hearing, without any chance to
20 even see, much less cross-examine, the
21 witness that the State has called.

22 These other threats are serious, but
23 they don't call for summary suspension under
24 Section 814. I think it's particularly
25 important that you limit the remedy today, if

1 at all, under the circumstances we have here,
2 which are the complaint of a single patient
3 and the affidavit of a single and,
4 admittedly, disgruntled ex-employee of
5 Dr. Chase. He left her employ (sic) I
6 believe only a week or two ago, and
7 apparently this came to the Board's attention
8 shortly thereafter.

9 To circumvent the limitations in
10 Section 814 and to go so far as to suspend
11 his practice when all that's necessary to
12 cure the imminent threat would simply be to
13 order him from performing and scheduling
14 further surgeries I think would be contrary
15 to law, and I really think it would be
16 contrary to common sense in the face of these
17 allegations, which to this point remain
18 entirely untested and will remain so until
19 we've had a chance to challenge them on the
20 merits.

21 That's where I -- that's all we have
22 to present, but I'd be happy to take any
23 questions from the members.

24 PRESIDING OFFICER: Do the members,
25 either in person or over the phone, have any

1 questions of Mr. Miller?

2 MR. WEBBER: Eric, have you made this
3 proposal to Mr. Winn?

4 MR. MILLER: Yes. Mr. Winn and I had
5 an opportunity -- as I said, we received this
6 at about 10 this morning, but we did have an
7 opportunity to talk late this afternoon. We
8 proposed -- with the -- with the Board's
9 permission, I will tell you what we did
10 propose in terms of premeeting settlement
11 discussions.

12 We proposed that Dr. Chase would enter
13 into a consent order limiting -- rather,
14 eliminating his ability to schedule and
15 perform further surgeries until we've had a
16 chance to have a full hearing on the merits
17 or this case is otherwise resolved, and the
18 State, as our presence here today indicates,
19 declined to accept that.

20 PRESIDING OFFICER: Any other
21 questions?

22 MS. NICOL: This is Sharon Nicol, and
23 I do have a question. Or perhaps a statement
24 type of question. I would have to feel after
25 reading the material here and listening to

Pages # 19 & 20
from Exhibit B
are missing. They
are not in the
original filing.

1 The second thing you raised is are
2 there things out there that this Board is not
3 aware of, and that, too, is a question that
4 cannot be answered today. This Board has in
5 front of it what the State submitted this
6 morning, and that's all it has in front of
7 it. To suspend his license, even
8 temporarily, on the basis of allegations that
9 have not even been brought forward by the
10 State, much less examined by the respondent,
11 I think would be improper.

12 PRESIDING OFFICER: Okay. Mr. Winn,
13 would you like a brief period to rebut --

14 MR. WINN: Yes, I would.

15 PRESIDING OFFICER: -- any statements
16 by Mr. Miller?

17 MR. WINN: I agree with his assessment
18 of the law. I think this situation is very
19 much the emergent situation that -- that the
20 summary suspension statute calls for. And to
21 separate out the surgery issue without
22 looking at the entire picture that's been
23 presented to you I think is -- is a mistake
24 and puts the public at risk.

25 If you have a doctor who's willing to

1 submit patients to unnecessary surgery, that
2 calls into question his fitness to practice
3 medicine in general. It's putting patients
4 at risk unnecessarily and, based on the
5 statement of Amy Landry, deliberately:
6 Fixing tests in order to come out to a
7 certain result to justify cataract surgery.
8 And if he's willing to put patients at that
9 risk in operation, it seems to me he's
10 willing to put them at risk in other
11 situations, as well.

12 MS. NICOL: That would be my concern.

13 MR. WINN: The public is at risk,
14 and -- and the surgery for this -- from the
15 State's perspective, the offer of ceasing
16 surgery is inadequate.

17 PRESIDING OFFICER: All right. I want
18 to thank the parties for the concise
19 statements concerning the motion. I will
20 point out that 814 is the law that is
21 governing this proceeding, and the Board will
22 be confined in their deliberations only to
23 the material that is contained in the motion
24 and any attachments.

25 At this time I would suggest a motion

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December 1, 2003

Carl Andreas
113 Ridge Top Lane
Essex Jct., VT 05452

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Andreas:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

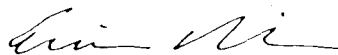
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Please contact me or my legal assistant, Kelly Sammel, to arrange for an interview or deposition date. I look forward to hearing from you.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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December 1, 2003

William Augood
33 North Ave., Unit 1
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Augood:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

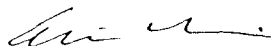
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Eric S. Miller

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December 1, 2003

Franklin Cole
5234 Dorset St.
Shelburne, VT 05482

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Cole:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

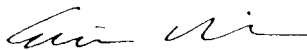
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Eric S. Miller

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December 1, 2003

V. Jane Corning
22 Old Farm Road
Jericho, VT 05465

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Corning:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

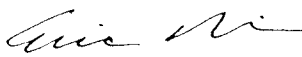
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Eric S. Miller

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December 1, 2003

Richard Gagnon
1207 The Terraces
Shelburne, VT 05482

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Gagnon:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

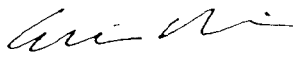
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December 1, 2003

Marylen Grigas
317 Flynn Ave.
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Grigas:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

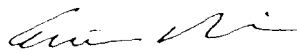
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December 1, 2003

Jan Kerr
457 Weed Road
Hinesburg, VT 05461

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Kerr:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

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December 1, 2003

Susan Lang
405 Browns River Road
Essex Jct., VT 05452

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Lang:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

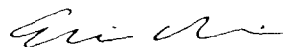
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December 1, 2003

Robert McClain
346 Falcon Manor
Williston, VT 05493

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. McClain:

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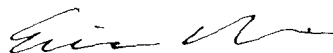
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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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December 1, 2003

Margaret McGowan
3 Windridge Rd.
Essex Junction, VT 05452

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. McGowan:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

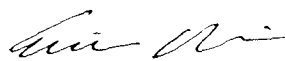
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December 1, 2003

Helena Nordstrom
96 Charlotte St.
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Nordstrom:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.


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December 1, 2003

Donald Olson, DDS
232 Cold Spring Rd.
Milton, VT 05468

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Olson:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.


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December 1, 2003

Joseph T. Touchette
166 Maple Hill
Richmond, VT 05477

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Touchette:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former patients of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

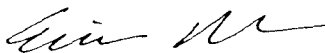
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December 1, 2003

Phil A. Aitken, M.D., F.A.C.S.
55 Timber Lane
South Burlington, VT 05403

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Aitken:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.


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December 1, 2003

Thomas J. Cavin, M.D.
54 Timber Lane
South Burlington, VT 05403

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Cavin:

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December 1, 2003

Reid L. Grayson, O.D.
230 College St.
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Grayson:

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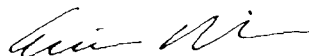
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Eric S. Miller

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December 1, 2003

Edwin J. Guilfooy, M.D.
16 Railroad St.
Essex Junction, VT 05452

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Guilfooy:

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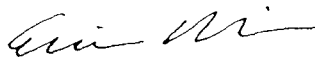
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December 1, 2003

Thomas W. Meaker, O.D.
4 Laurel Hill Dr.
South Burlington, VT 05403

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Meaker:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.

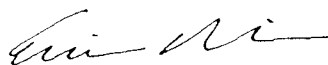
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Eric S. Miller

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December 1, 2003

Patrick J. Morhun, M.D.
6 South Park Street
Lebanon, NH 03766

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Morhun:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.

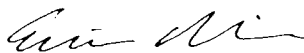
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December 1, 2003

Dora Sudarsky, O.D.
Eyes of the World
168 Battery St.
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Sudarsky:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.


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December 1, 2003

Geoffrey C. Tabin, M.D.
Associate Professor of Ophthalmology
Fletcher Allen Health Care
UHC Campus
1 South Prospect Street
Burlington, VT 05401-3456

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Tabin:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.

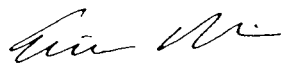
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Please contact me or my legal assistant, Kelly Sammel, to arrange for an interview or deposition date. I look forward to hearing from you.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.


Eric S. Miller

ESM\khs

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ATTORNEYS AT LAW

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December 1, 2003

James D. Watson, M.D.
199 Main St.
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. Watson:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other local ophthalmologists, in connection with Dr. Chase's efforts to defend himself.

Although we understand that this deposition may be inconvenient for you, we wish to schedule and conduct it in a manner that will impose as little inconvenience upon you as is possible consistent with Dr. Chase's need to prepare a defense. Accordingly, rather than simply serving a subpoena with a specified date, we would like to work with you to select a convenient date sometime during the period between December 8, 2003 and January 15, 2004.

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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.


Eric S. Miller

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December 1, 2003

Vincent DeVita, O.D.
161 Austin Dr., #124
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Dr. DeVita:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

ESM:khs

SHEEHEY FURLONG & BEHM

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December 1, 2003

Tina Felix
147 River Road
Colchester, VT 05446

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Felix:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

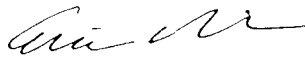
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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

ESM\khs

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December 1, 2003

Stephen Green
P.O. Box 80
W. Hartford, VT 05084

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Mr. Green:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

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Sincerely yours,

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Eric S. Miller

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December 1, 2003

Patricia Halverson
150 Prospect Parkway
Burlington, VT 05401

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Halverson:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

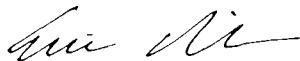
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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

ESM/khs

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December 1, 2003

Amy Landry
119 Ira Allen Ct.
Colchester, VT 05446

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Landry:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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December 1, 2003

Kathleen Miceli
29 Butler Dr.
So. Burlington, VT 05403

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Miceli:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

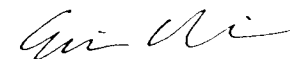
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Please contact me or my legal assistant, Kelly Sammel, to arrange for an interview or deposition date. I look forward to hearing from you.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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SHEEHEY FURLONG & BEHM

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December 1, 2003

Victoria Oakes
P.O. Box 323
Hinesburg, VT 05461

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Oakes:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

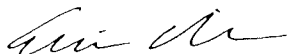
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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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December 1, 2003

Melissa Lacross
3971 Ethan Allen Hwy
St. Albans, VT 05478

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Lacross:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

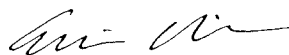
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Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

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December 3, 2003

Ann Hadlock Cross
81 Well Ave., #5
Colchester, VT 05446

Re: Dr. David Chase/Vermont Medical Practice Board (In re: David Chase: MPC 15-0203)

Dear Ms. Cross:

My firm represents Dr. David Chase in connection with the license suspension proceeding pending against him before the Vermont Medical Practice Board. Dr. Chase has a right to prepare a defense to the charges that the State has leveled against him in that matter by, among other things, gathering relevant evidence through the deposition of potential witnesses. The Attorney General has identified you as a potential witness. We would like to schedule a deposition with you, as well as other former employees of Dr. Chase, in connection with Dr. Chase's efforts to defend himself.

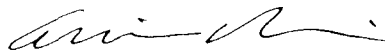
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Please contact me or my legal assistant, Kelly Sammel, to arrange for an interview or deposition date. I look forward to hearing from you.

Sincerely yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

ESM\khs

(F)

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



TEL.: (802) 828-3171
FAX: (802) 828-2154
TTY: (802) 828-3665
CIVIL RIGHTS: (802) 828-3657

<http://www.state.vt.us/atg>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

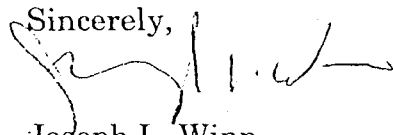
December 4, 2003

Patricia Halverson
150 Prospect Parkway
Burlington, VT 05401

Re: David Chase

Dear Mrs. Halverson:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Janet Kerr
457 Weed Road
Hinesburg, VT 05461

Re: David Chase

Dear Ms. Kerr:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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MONTPELIER
05609-1001

December 4, 2003

William Augood
33 North Avenue, Unit #1
Burlington, VT 05401

Re: David Chase

Dear Mr. Augood:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Winn", written over a horizontal line.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



TEL.: (802) 828-3171
FAX: (802) 828-2154
TTY: (802) 828-3665
CIVIL RIGHTS: (802) 828-3657

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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

V. Jane Corning
22 Old Farm Road
Jericho, VT 05465

Re: David Chase

Dear Ms. Corning:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Winn'.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Joseph Touchette
166 Maple Hill
Richmond, VT 05477

Re: David Chase

Dear Mr. Touchette:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

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109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Margaret McGowan
3 Windridge Road
Essex Jct., VT 05452

Re: David Chase

Dear Mrs. McGowan:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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J. WALLACE MALLEY, JR.
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05609-1001

December 4, 2003

Franklin Cole
5234 Dorset Street
Shelburne, VT 05482

Re: David Chase

Dear Mr. Cole:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

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109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Robert McClain
346 Falcon Manor
Williston, VT 05495

Re: David Chase

Dear Mr. McClain:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
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109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Donald Olson, DDS
232 Cold Spring Road
PO Box 517
Milton, VT 05468

Re: David Chase

Dear Dr. Olson:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Winn", with a long horizontal flourish extending to the right.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Marylen Grigas
317 Flynn Avenue
Burlington, VT 05401

Re: David Chase

Dear Ms. Grigas:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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J. WALLACE MALLEY, JR.
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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Richard Gagnon
1207 The Terraces
Shelburne, VT 05482

Re: David Chase

Dear Mr. Gagnon:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "J. L. Winn", written over a circular stamp.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Susan Lang
405 Browns River Road
Essex Jct., VT 05452

Re: David Chase

Dear Ms. Lang:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Winn", written over a horizontal line.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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J. WALLACE MALLEY, JR.
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Helena Nordstrum
96 Charlotte Street
Burlington, VT 05401

Re: David Chase

Dear Ms. Nordstrum;

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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109 STATE STREET
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05609-1001

December 4, 2003

Ann Hadlock
Westbrook 81
Wells Avenue Apt. 5
Colchester, VT 05466

Re: David Chase

Dear Ms. Hadlock:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Amy Landry
119 Ira Allen Court
Colchester, VT 05466

Re: David Chase

Dear Ms. Landry:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

James Devita
161 Austin Drive #124
Burlington, VT 05401

Re: David Chase

Dear Mr. Devita:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Tina Felix
147 River Road
Colchester, VT 05466

Re: David Chase

Dear Ms. Felix:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Winn", written over the printed name.

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
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05609-1001

December 4, 2003

Steven Green
PO Box 80
West Hartford, VT 05084

Re: David Chase

Dear Mr. Green:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Kathleen Miceli
29 Butler Drive
South Burlington, VT 05403

Re: David Chase

Dear Ms. Miceli:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
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WILLIAM E. GRIFFIN
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
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05609-1001

December 4, 2003

Melissa LaCross
3971 Ethan Allen Parkway
St. Albans, T 05478

Re: David Chase

Dear Ms. LaCross:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

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Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 4, 2003

Victoria Oakes
1513 North Road
Hinesburg, VT 05461

Re: David Chase

Dear Ms. Oakes:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph L. Winn".

Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.
Phil Ciotti, Investigator

SHEEHEY FURLONG & BEHM

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

R. JEFFREY BEHM
IAN P. CARLETON
MICHAEL G. FURLONG
CHRISTOPHER R. GANNON
JENNEFER C. GARRITY
BARTLETT F. LEBER
DIANE M. MCCARTHY
ERIC S. MILLER
PAUL D. SHEEHEY
PETER H. ZAMORE

GATEWAY SQUARE
30 MAIN STREET
POST OFFICE BOX 66
BURLINGTON, VERMONT 05402
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www.sheeheyvt.com

VIA FACSIMILE

December 11, 2003

Joseph L. Winn, Esq.
ATTORNEY GENERAL'S OFFICE
109 State Street
Montpelier, VT 05609-1001

Re: In re: David S. Chase MD – Docket No. MPC 15-0203

Dear Joe:

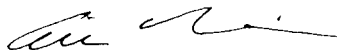
I am in receipt of your December 10, 2003 letter forwarding additional discovery materials in the above-captioned matter. I understand that you now believe you have produced all documents, with the exception of some of Ms. Salatino's medical records, to which Dr. Chase is entitled under the Board's Rules and Order, and that there is no additional discoverable information in the Board's files. If I am mistaken in this regard, please let me know. Also, please inform me as soon as possible if you have withheld any otherwise responsive information on the basis of attorney-client or work product privilege.

Please note that we strongly object to the State's improper efforts to discourage witnesses from speaking with Dr. Chase and will be raising this issue before the appropriate tribunal in the near future.

I will be in contact with you by the close of business Friday regarding the depositions of Dr. and Mrs. Chase.

Very truly yours,

SHEEHEY FURLONG & BEHM P.C.



Eric S. Miller

ESM/hbc

F:\WPDOCS\C\ChaseDavidMD\MedPrBd\correspondence\Winn13.doc

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 18, 2003

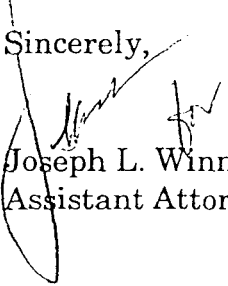
Edwin J. Guilfoyle, MD
16 Railroad Street
Essex Junction, VT 05452

Re: David Chase

Dear Dr. Guilfoyle:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq. ✓
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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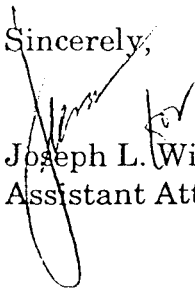
Alan Irwin, MD
Fletcher Allen Health Care
UHC Campus
1 South Prospect Street
Burlington, VT 05401-3456

Re: David Chase

Dear Dr. Irwin:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq. ✓
Phil Ciotti, Investigator

WILLIAM H. SORRELL
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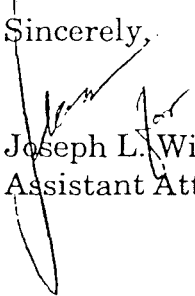
Geoffrey C. Tabin, MD
Fletcher Allen Health Care
UHC Campus
1 South Prospect Street
Burlington, VT 05401-3456

Re: David Chase

Dear Dr. Tabin:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq. ✓
Phil Ciotti, Investigator

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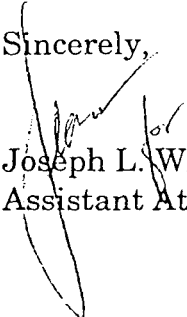
Karen E. Cleary, MD
10 Marsett Road, Suite #1
Shelburne, VT 05482

Re: David Chase

Dear Dr. Cleary:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq. ✓
Phil Ciotti, Investigator

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

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December 18, 2003

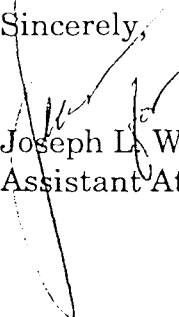
Kathleen J. Maguire, MD
199 Main Street
Burlington, VT 05401

Re: David Chase

Dear Dr. Maguire:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq. ✓
Phil Ciotti, Investigator

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ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

December 18, 2003

James D. Watson, MD
199 Main Street
Burlington, VT 05401

Re: David Chase

Dear Dr. Watson:

As you probably already know, you have been identified by the State as a potential witness in the State's disciplinary proceedings against Dr. David Chase before the Vermont Medical Practice Board. Eric Miller, attorney for Dr. Chase, has sent or will send a letter to you requesting an interview or deposition. The State requests that you not speak with Attorney Miller or anyone from his office in an informal interview. The State further requests that you allow us to arrange for the scheduling of any deposition Attorney Miller wishes to take. If you are willing to agree to the State's requests you need only refer Attorney Miller to this office regarding his requests. If you have any questions or concerns regarding this process you may contact either myself (802-828-5506) or my paralegal Jean Kennedy (802-828-5529).

Sincerely,


Joseph L. Winn
Assistant Attorney General

cc: Eric Miller, Esq.'/
Phil Ciotti, Investigator

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

RE:)
)
) DOCKET NO. MPC 15-0203
DAVID S. CHASE, M.D.)

D E P O S I T I O N

- of -

AMY M. LANDRY

taken on behalf of the Respondent on
Monday, December 22, 2003, at the offices of
Sheehey, Furlong & Behm, P.C.,
30 Main Street, Gateway Square, Burlington,
Vermont, commencing at 9:29 a.m.

APPEARANCES:

ON BEHALF OF THE STATE:

JOSEPH L. WINN, ESQUIRE
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609-1001

ON BEHALF OF THE RESPONDENT:

ERIC S. MILLER, ESQUIRE
Sheehey, Furlong & Behm, P.C.
30 Main Street, P. O. Box 66
Gateway Square
Burlington, Vermont 05402-0066

ALSO PRESENT: DAVID S. CHASE, M.D.
BRIANNE E. CHASE

JOHANNA MASSE, RMR, CRR
COURT REPORTERS ASSOCIATES
117 BANK STREET
BURLINGTON, VERMONT 05401
(802) 862-4593

I N D E X

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E X H I B I T S

<u>DEPOSITION EXHIBITS</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
No. 1	Subpoena	3
No. 2	Motion for Summary Suspension	3
No. 3	Handwritten Notes	3
No. 4	Statement to the Medical Board	3
No. 5	List of Staff Members	3
No. 6	Initial Eye Examination	3
No. 7	Eye and Health History	3
No. 8	Lifestyle Questionnaire	3
No. 9	Medical Record -	3
No. 10	Medical Record -	3
No. 11	Employment Application Documents	3
No. 12	Exit Interview	3
No. 13	Letter of Resignation	3
No. 14	(Marked but not referred to)	3
No. 15	12/4/03 Letter to Amy Landry from Joseph Winn	3

(The original exhibits are attached.)

1 S T I P U L A T I O N S

2 IT IS HEREBY STIPULATED AND AGREED

3 by and among Counsel for the respective parties that
4 this deposition is being taken in accordance with the
5 Vermont Rules of Civil Procedure; that all objections
6 as to Notice of this deposition are hereby waived;
7 that all objections except as to form are reserved ,
8 until the time of trial; and that the witness has
9 reserved the right to read and sign the deposition
10 after review by counsel.

11 * * *

12 MONDAY, DECEMBER 22, 2003; 9:29 A.M.

13 (Deposition Exhibit Nos. 1-15 were
14 marked for identification prior to the
15 commencement of the deposition.)

16 AMY M. LANDRY,
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 BY MR. MILLER:

20 Q. Good morning, Amy. I'm Eric Miller, and as you
21 know, I am Dr. Chase's attorney in the Medical
22 Practice Board proceeding.

23 A. Um-hum.

24 Q. Could you just state your full name for the
25 record here.

1 A. Yes. Amy Marie Landry.

2 Q. Amy, have -- we're here in a deposition in the
3 Medical Practice Board proceeding. Have you ever been
4 deposed before?

5 A. No.

6 Q. Okay. Let me tell you just a little bit about
7 it. The -- it's relatively straightforward. I'm
8 going to ask you a number of questions. You've been
9 sworn. You're under oath.

10 A. Um-hum.

11 Q. And so it's simply your obligation to answer them
12 truthfully and to the best of your ability during the
13 deposition. The reporter's going to take it all down.

14 A. Yup.

15 Q. And afterwards you'll be given a written copy of
16 the transcript that you can look at and read and
17 correct any mistakes that were made in the
18 transcription.

19 It's possible that Mr. Winn may object to
20 some of my questions during the deposition. If he
21 objects and you understand the question, you can go
22 ahead and answer it. If for some reason you don't
23 understand a question, whether it's objected to or
24 not, just let me know and I'll be happy to rephrase it
25 in a way that hopefully does make sense to you. Does

1 that make sense?

2 A. Um-hum. Yes.

3 Q. And one of the rules is when you answer
4 questions, if it's a yes-or-no question, you need to
5 answer yes or no rather than uh-huh or uh-uh, because
6 those two look a lot alike --

7 A. Okay.

8 Q. -- in a written transcript. So try to say yes or
9 no. And if you forget, as most of us do during
10 conversation, either I will remind you or the court
11 reporter will remind you.

12 If you don't ask me to clarify a question,
13 I'm going to presume that you do understand it and are
14 answering it to the best of your ability. Is that
15 okay?

16 A. Yes.

17 Q. I'll be asking you during the deposition what you
18 know. I'm not going to be asking you to guess or to
19 tell me what you think might be true if you don't
20 know. So I'm going to tell you right now, if you
21 don't know, please tell me that you don't know. All
22 right?

23 A. Yes.

24 Q. And if you are guessing rather than telling me
25 something you know to be true, please tell me that, as

1 well. Okay?

2 A. Yes.

3 Q. If you need to take a break at any time, just let
4 me know, and we'll do that.

5 And with that, we'll get started.

6 A. Okay.

7 Q. I'm going to hand you what has been marked as
8 Landry Deposition Exhibit 1. This is a copy of the
9 subpoena that you received. Did you get a copy of
10 this last week?

11 A. Yes.

12 Q. And are you here pursuant to this subpoena?

13 A. Yes.

14 Q. And this subpoena asked you, among other things,
15 to bring with you any documents that you had relating
16 to Dr. Chase or his medical practice. Did you see
17 that request?

18 A. Yes.

19 Q. And did you have any documents that fit that
20 request?

21 A. No.

22 Q. And so did you bring any documents with you
23 today?

24 A. No.

25 Q. I'm going to go through your educational and work

1 background in a little more detail later.

2 A. Um-hum.

3 Q. But -- and you can set Exhibit 1 aside. We're
4 done with that now.

5 A. Okay.

6 Q. But I want to go through just a couple of things
7 briefly --

8 A. Um-hum.

9 Q. -- at the outset, okay?

10 A. Yes.

11 Q. First of all, where do you live?

12 A. In Colchester.

13 Q. What's your address?

14 A. 119 Ira Allen Court.

15 Q. And what's your telephone number there?

16 A. 864-5050.

17 Q. Where do you work now?

18 A. Dr. Ch- -- Dr. Cavin's office. Sorry.

19 Q. And how long have you worked there?

20 A. Seven months? I don't know. Since -- since
21 August.

22 Q. Since August of 2003?

23 A. Yes.

24 Q. How far did you go in school?

25 A. LPN school but did not graduate.

- 1 Q. Okay.
- 2 A. And some college, so ...
- 3 Q. And some college but also didn't get a degree?
- 4 A. No. Didn't want to pursue anything at that time,
- 5 so ...
- 6 Q. Okay. So you got a high school diploma, correct?
- 7 A. Yes.
- 8 Q. From Burlington High School?
- 9 A. Yes.
- 10 Q. And then you did some work as -- in nursing
- 11 school but didn't get a degree there; is that right?
- 12 A. It was a certificate. No.
- 13 Q. And you didn't get -- did you get the certificate
- 14 or not?
- 15 A. No. Didn't end up wanting to pursue that, so ...
- 16 Q. Okay. And then you did a little bit of college
- 17 work but decided not to pursue that, either; is that
- 18 right?
- 19 A. I was just taking courses.
- 20 Q. At CCV?
- 21 A. Yeah.
- 22 Q. Before you went to work for Dr. Chase, did you
- 23 have any training in ophthalmology?
- 24 A. No.
- 25 Q. Did you have any training in eye care more

1 generally?

2 A. No.

3 Q. Did you work as a tech or a scribe in any eye
4 doctor's office?

5 A. No.

6 Q. Did you have any informal training in
7 ophthalmology or eye care?

8 A. No.

9 Q. You received on-the-job training in Dr. Chase's
10 office, correct?

11 A. Yes.

12 Q. And you worked as a tech and a scribe there; is
13 that right?

14 A. Yes.

15 Q. Did you also work for a short time in the OR, as
16 well?

17 A. Yes.

18 Q. The training that you got there was from
19 Dr. Chase's staff; is that right?

20 A. Yes.

21 Q. Was it from Dr. Chase directly or from his staff?

22 A. Staff.

23 Q. Dr. Chase's staff didn't train you to look
24 through the slit lamp to examine patients' eyes for
25 abnormalities or any other eye conditions, did they?

1 A. No.

2 Q. Okay. So you weren't trained in doing that?

3 A. No.

4 Q. You weren't trained in making a decision on when
5 to offer a patient cataract surgery?

6 A. No.

7 Q. You weren't trained on diagnosing a patient as to
8 whether or not they had or didn't have cataracts?

9 A. No.

10 Q. And you didn't perform that task as part of your
11 job there at Dr. Chase's office?

12 A. No.

13 Q. Were you educated in what the medical standards
14 were as to when cataract surgery is appropriate for a
15 particular patient?

16 A. I believe so.

17 Q. Okay. What do you -- what is the standard for
18 when cataract surgery is appropriate?

19 A. 20/50.

20 Q. Can you explain that a little bit more?

21 A. When their Snellen is greater -- equal or greater
22 to 20/50 for the Snellen.

23 Q. So it's equal or greater. And I just want to
24 make sure I understand you, so correct me if I'm
25 wrong. Your understanding is that the standard for

1 cataract surgery is when their Snellen vision is 20/50
2 or worse, they may be a proper candidate for cataract
3 surgery?

4 A. Yes.

5 Q. What's the source of your knowledge as to that
6 standard?

7 A. I don't know. I'm not sure, to be honest with
8 you.

9 Q. Is that something you learned before you came to
10 work in Dr. Chase's office?

11 A. No.

12 Q. So it's something that you think you picked up
13 while you were in Dr. Chase's office?

14 A. Yes. I just don't know who told me that.

15 Q. Do you remember reading it anywhere?

16 A. I don't know.

17 Q. So you learned it either from reading it or from
18 hearing it from someone in Dr. Chase's office during
19 your time there?

20 A. Yes.

21 Q. Was it Dr. Chase who told you that?

22 A. I don't know.

23 Q. I want to move first to the topic of how you came
24 to be a witness in this case.

25 Prior to leaving Dr. Chase's employment,

1 had you had any contact with the Medical Practice
2 Board?

3 A. No.

4 Q. Had you had any contact prior to leaving his
5 office with any law enforcement authorities?

6 A. No.

7 Q. Now, you left Dr. Chase's employment in July of
8 2003 in large measure because you and he did not get
9 along; is that right?

10 A. Right. Um-hum. Yes. Sorry.

11 Q. And when you left his employment, you sat down
12 with Mrs. Chase and the office manager, Stephen Green,
13 and told them that you didn't get along with
14 Dr. Chase, correct?

15 A. Yes.

16 Q. So when you left, Stephen Green knew that you
17 were leaving in large part because you didn't like
18 Dr. Chase?

19 A. Yes.

20 Q. How long after leaving Dr. Chase's office, his
21 employment, were you -- did you come in contact with
22 the Medical Practice Board?

23 A. I don't remember the exact date. I think it was
24 a Wednesday.

25 Q. Was it a few days after or a few weeks after?

- 1 A. I think it was a week after.
- 2 Q. About one week afterwards?
- 3 A. Yes. I was on my way to Maine.
- 4 Q. How did the Board make contact with you?
- 5 A. Phil Ciotti --
- 6 Q. Did -- did --
- 7 A. -- called me on the phone at 8:30 in the morning.
- 8 Q. Did it come as a surprise to hear from them?
- 9 A. Yeah.
- 10 Q. Had you had any reason to believe that you would
- 11 be contacted by them prior to that?
- 12 A. No.
- 13 Q. And what did Mr. Ciotti say when he called you
- 14 up?
- 15 A. That he was -- he was investigating Dr. Chase and
- 16 that he asked me for a time to talk to him, so he came
- 17 to my house that day.
- 18 Q. During the telephone conversation did he tell you
- 19 exactly what he wanted to talk to you about?
- 20 A. No.
- 21 Q. Did he tell you what about Dr. Chase they were
- 22 investigating at that point?
- 23 A. No.
- 24 Q. Did he come to your house later that morning?
- 25 A. Yes.

1 Q. When he came to your house later that morning,
2 did he tell you why the Board was investigating
3 Dr. Chase?

4 A. Yes. Because a patient was suing him.

5 Q. So Phil Ciotti said that a patient was suing
6 Dr. Chase?

7 A. Yes. Or -- excuse me. I mean, I think I'm using
8 the wrong words. Pursuing charges against Dr. Chase,
9 I believe.

10 Q. Okay. Pursuing --

11 A. To the Medical Board.

12 Q. Okay. Did Phil Ciotti tell you who that patient
13 was?

14 A. I saw the chart. She -- he showed me the chart.

15 Q. Who was it? Was it

16 A. Yes.

17 Q. Did Mr. Ciotti tell you the nature of the
18 complaint that she had lodged with the Medical
19 Practice Board?

20 A. I don't remember. I believe so.

21 Q. Do you remember knowing that she had made
22 allegations regarding unnecessary cataract surgery?

23 A. Yes.

24 Q. Did Mr. Ciotti tell you that the Board was
25 investigating charges or complaints regarding

1 unnecessary cataract surgery?

2 A. Yes.

3 Q. Did -- what did he tell you about those
4 complaints, if anything?

5 A. No. No. Nothing much. Just that they were
6 investigating and they were just getting testimonies
7 of -- of the employees and patients.

8 Q. Did he tell you that he had talked to other
9 employees at that point?

10 A. He told me he had talked to a couple and he was
11 going to be talking to the rest.

12 Q. Did he tell you which employees he had already
13 talked to?

14 A. No.

15 Q. Did he tell you what some of these other
16 employees had told him?

17 A. Yes. Sort of.

18 Q. What did he tell you?

19 A. Well, I -- I -- he told me about Dr. DeVita, so
20 yes, he did tell me that Dr. DeVita had spoke to him
21 already. And he just said that what I had stated was
22 pretty much the same as what Dr. DeVita had stated, so
23 just -- that's what he said.

24 Q. Did he tell you this -- when you say what you had
25 stated, you're referring to what you later told him

1 during the course of --

2 A. Yes.

3 Q. -- the interview?

4 A. Yes.

5 Q. Prior to asking you questions, did he tell you
6 that he had spoken with Dr. DeVita and tell you
7 generally what Dr. DeVita had said?

8 A. No. No.

9 Q. Did he tell you that other staff members had
10 informed the Board that they thought Dr. Chase was
11 doing unnecessary cataract surgery?

12 A. No.

13 Q. What did he say he wanted from you?

14 A. Just information.

15 Q. Did he indicate that you could choose not to
16 speak with him?

17 A. No.

18 Q. To the contrary, did he indicate to you that
19 you -- that you had no choice but to speak with him?

20 A. No.

21 Q. What did he say?

22 A. He -- I think it was more myself believing that I
23 had to talk to him. I didn't understand completely.

24 Q. Why did you believe you had to talk to him?

25 A. Because he was investigating Dr. Chase, and I

1 felt that I needed to talk.

2 Q. Did he tell you that if you didn't talk to him
3 there, that he would subpoena you?

4 A. Yes. That he would have to, in return, subpoena
5 me for a later date.

6 Q. Were you worried that if you didn't talk with him
7 voluntarily you might get in some trouble?

8 A. I believe so.

9 Q. What were you worried about?

10 A. Just being part of the investigation. I didn't
11 want to be a part of it.

12 Q. Now, during the course of the interview, did
13 Mr. Ciotti ask you specific questions, or did he just
14 ask you, What do you know about Dr. Chase and cataract
15 surgery?

16 A. Both.

17 Q. What sort of things did he ask you specifically?

18 A. Well, he pulled out the chart, and I went over
19 the chart with him, so that was what he specifically
20 asked me to do, and he asked me about CST with BATs
21 and stickie notes, so -- and then I spoke in between.

22 Q. Did he take notes during the interview?

23 A. Yes.

24 Q. Did he take notes in the form of a statement that
25 you later signed?

1 A. Yes.

2 Q. Did he take notes in addition to that statement?

3 A. I don't remember.

4 Q. Did he tell you that the information that you
5 were giving him would form much of the basis for the
6 State's efforts to summarily revoke Dr. Chase's
7 license?

8 A. No.

9 Q. I'm going to hand you what we have marked as
10 Landry Deposition Exhibit 2, which is the State's
11 motion for summary suspension. Have you seen this
12 before?

13 A. Yes.

14 Q. Did the State, either Mr. Ciotti or anyone else,
15 ask you to review the portion of this that contained
16 your allegations before -- before this was filed? In
17 other words, did they ask -- did the State ask you to
18 look at this to determine its accuracy before it was
19 filed?

20 A. No.

21 Q. When did you first see this?

22 A. When -- I don't know the lawyer's name, but
23 there's a lawyer that was suing Mr. and Mrs. Chase,
24 and she asked me to go through it and I'd get to
25 change some things on it, so that was my first time

1 seeing this.

2 Q. Did you see the allegations in here as they were
3 reported in the newspaper near the time of Dr. Chase's
4 license suspension?

5 A. Can you ask that again?

6 Q. Sure. I'm sorry. Did you see any of the news
7 coverage regarding Dr. Chase's license suspension?

8 A. Yes. Every one of them. Except for when I was
9 in Maine when it first happened.

10 Q. And did you read the newspaper's accounts of your
11 testimony as contained in the specification of
12 charges?

13 A. Yes.

14 Q. What was your reaction when you found out that
15 your testimony had formed the basis for this summary
16 suspension document?

17 A. I was upset.

18 Q. Why were you upset?

19 A. Because I didn't fully understand that this was
20 how it was going to happen. I didn't understand that.

21 Q. Between the time you sat down with Phil Ciotti --
22 and by the way, did you just meet with him on one
23 occasion?

24 A. Yes.

25 Q. And between the time you met with him on that one

1 occasion and the time Dr. Chase's license was
2 suspended, did you talk with anybody else from the
3 Medical Practice Board?

4 A. No.

5 Q. When you saw the statements that had been
6 attributed to you by the State in this summary -- in
7 this summary suspension document, were you concerned
8 that some of them were not accurate?

9 A. Yes.

10 Q. Can you flip to Page 5 of this for me, which is
11 where your -- the rendition of your testimony starts.
12 You see it starts with Paragraph 18?

13 A. Yes.

14 Q. I'm going to ask you to look first at
15 Paragraph 20, which says, Miss Landry stated that she
16 believed respondent, and then it has quotation marks,
17 "crafted records to force patients into cataract
18 surgery."

19 Did you tell Phil Ciotti that Dr. Chase
20 "crafted records to force patients into cataract
21 surgery"?

22 A. No.

23 Q. At the time you talked with Phil Ciotti, did you
24 know whether or not Dr. Chase had crafted records to
25 force patients into cataract surgery? Again, I'm

1 asking you what you knew, not what you were guessing.

2 A. Right. But I just don't completely understand.

3 I didn't say this.

4 Q. I understand. Okay. Is it fair to say that when
5 you talked with Phil Ciotti, you didn't know one way
6 or the other whether or not Dr. Chase had crafted
7 records to force patients into cataract surgery?

8 A. Right. Yes.

9 Q. And -- okay. I'm going to ask you to look at
10 Paragraph 21. It says, According to Miss Landry,
11 recording of test results was different for a patient
12 that was above the age of 35 and had no prior cataract
13 surgery.

14 Did you tell Phil Ciotti that?

15 A. I misrepresented it. It was supposed to be 45.

16 Q. Okay. So you did say that recording of test
17 results was different for patients over the age of 35?

18 A. I believe so.

19 Q. Okay. But you believe that you were incorrect in
20 telling him that?

21 A. Yes. I was nervous.

22 Q. Later in that paragraph it says, For patients in
23 the target group, technicians were instructed not to
24 record any test results in the chart but instead to
25 write testing results on Post-it paper.

1 Did you tell Phil Ciotti that?

2 A. Yes.

3 Q. You told him that technicians were instructed not
4 to record any test results on the chart but instead to
5 write test results on Post-it paper?

6 A. Snellen and CST with BAT results.

7 Q. Okay. But you didn't tell --

8 A. Snellen and refractions went on Post-its.

9 Q. So just so I understand, Snellen and refractions
10 went on Post-it notes; is that right?

11 A. Yes.

12 Q. And that's what you told Phil Ciotti?

13 A. I don't remember.

14 Q. Okay. CST with BAT results did not go on Post-it
15 notes?

16 A. No. No.

17 Q. And you did not tell Phil Ciotti that CST with
18 BAT results went on Post-it notes?

19 A. No. No.

20 Q. Now, it's true that from time to time Dr. Chase
21 had his scribes or technicians reperform CST with BAT
22 results --

23 A. Right.

24 Q. -- during his examination of the patient; is that
25 right?

1 A. Right.

2 Q. And by that point in the examination the
3 patient's eyes were dilated for the purpose of
4 allowing Dr. Chase to look into them with the slit
5 lamp?

6 A. Yes.

7 Q. But Dr. Chase didn't, to your knowledge, dilate
8 their eyes for the purpose of reperforming a CST with
9 BAT test?

10 A. No.

11 Q. Instead, by the time it came -- by the time he
12 was examining them, their eyes were already dilated?

13 A. Yes.

14 Q. Okay. I'm going to ask you to look at Page --
15 Paragraph 25, which is on Page 6 of Exhibit 6.

16 THE REPORTER: Exhibit 6?

17 MR. MILLER: I'm sorry. Page 6 of
18 Exhibit 2.

19 Q. It says, After test results -- after tests were
20 performed, respondent would conduct a slit lamp where
21 respondent would, with patients of the target group,
22 begin what Miss Landry characterized as a "spiel"
23 concerning the presence of cataracts.

24 Did you tell Phil Ciotti that Dr. Chase
25 made a spiel to cataract patients?

1 A. No. Not my wording.

2 Q. Is that a word that you use?

3 A. No.

4 Q. What does spiel mean to you?

5 A. It just means that he made something up. I mean,
6 I just don't use the word.

7 Q. And you didn't use it with Phil Ciotti?

8 A. No. It's just a role, a thing that you would go
9 through.

10 Q. And you didn't tell -- did you tell Phil Ciotti
11 that Dr. Chase made this spiel or any other
12 presentation with every member of the target group,
13 whether or not they had cataract -- whether or not
14 they were diagnosed with cataracts?

15 A. Would you repeat that?

16 Q. Sure. What this says is that respondent would,
17 with patients of the target group -- which is
18 previously defined as people over 35 with no prior
19 cataract surgery. Respondent would, with patients of
20 the target group, begin what Ms. Landry characterized
21 as -- characterizes as a spiel concerning the presence
22 of cataracts.

23 Now, put aside whether or not "spiel" is
24 correct for a moment.

25 A. Um-hum.

1 Q. Did you tell Phil Ciotti that Dr. Chase made the
2 same presentation to everybody over the age of 35 who
3 hadn't had prior cataract surgery?

4 A. I believe so.

5 Q. And you --

6 A. That -- that he said needed cataract surgery.

7 Q. Okay. But only if he had diagnosed them as
8 having cataracts, correct?

9 A. Yes.

10 Q. Paragraph 26 reads, Respondent had his
11 examinations transcribed, and a "script" on an index
12 card was taped to the machine in the examination for
13 the benefit of the "scribe."

14 Did you tell Phil Ciotti that there was a
15 script taped on an index card in the examination room?

16 A. No. I told him that there was information so
17 that people like myself that did not scribe very much
18 knew the points to put down in the chart when he was
19 talking about cataract surgery to the patients.

20 Q. Is it accurate to portray that card as a script,
21 in your opinion?

22 A. No.

23 Q. Is it accurate to say that it was a tool used by
24 the scribes like you in order to make sure that they
25 properly charted everything that Dr. Chase normally

1 conveyed to a cataract patient during the course of
2 the examination?

3 A. Yes.

4 Q. And to make sure that neither he nor you forgot
5 to tell them some important piece of information
6 regarding their diagnosis or the risks or benefits of
7 surgery?

8 A. It was strictly for myself. He did not use it.
9 Or somebody else.

10 Q. So he didn't refer to that card, correct?

11 A. No.

12 Q. And -- okay. I'm going to show you what we've
13 marked as Landry Deposition Exhibit 3. Is Landry
14 Deposition Exhibit 3 the note card that you used as a
15 charting tool in the exam room?

16 A. Yes.

17 Q. And is this in your handwriting?

18 A. Yes.

19 Q. When did you write it?

20 A. I don't know.

21 Q. Early on in your tenure at Dr. Chase's office?

22 A. Yes. I'm sure.

23 Q. Okay. This is not something that Dr. Chase asked
24 you to do, is it?

25 A. No.

1 Q. Is this something that you learned from the other
2 techs and scribes in the office?

3 A. Are you asking this form?

4 Q. Yes. This format generally.

5 A. Yes. It was just recopied because the other one
6 was looking frayed.

7 Q. So you recopied this so you could read it more
8 easily in the exam room?

9 A. Yes.

10 Q. Was it based on the -- the card that Elaine
11 Lampron had done up?

12 A. I don't know who did it before me.

13 Q. Okay. So you don't know who wrote the card that
14 you copied on to this one?

15 A. No.

16 Q. Did the other scribes use similar cards?

17 A. It was taped on to the slit lamp.

18 Q. So every scribe using that room would -- would
19 have access to this card; is that right?

20 A. Yes. Yes.

21 Q. Did other techs use written prompts like this in
22 connection with other parts of their jobs; for
23 instance, how to perform tests and things like that?

24 A. No.

25 Q. Was this the only card like this that you came

1 across during your time in Dr. Chase's office?

2 A. There might have been a chart on the wall near
3 the auto refractor -- automatic lens. I can't think
4 of the name. I'm sorry.

5 Q. There's a machine called an auto refractor,
6 correct?

7 A. No. Not -- yes. Absolutely.

8 Q. And that's not the machine you're --

9 A. No.

10 Q. -- you're referring to now?

11 A. Right.

12 Q. But there may have been another card like this
13 near one of the other diagnostic machines in the
14 office?

15 A. Explaining how to do -- but I -- I just can't
16 remember. I'm sorry.

17 Q. Did you think there was anything wrong or unusual
18 or unethical about using this card to help you chart
19 during Dr. Chase's exams?

20 A. No.

21 MR. WINN: Object to the form.

22 Go ahead.

23 Q. You can answer if you understand the question.

24 A. No.

25 Q. What did you think when you saw this described as

1 a script and featured prominently in the State's
2 charges against Dr. Chase?

3 MR. WINN: Object to the form.

4 A. I don't know how to answer that one.

5 Q. Did you think that the charges as you read them
6 misrepresented the nature of this card?

7 A. Yes.

8 Q. You've identified several places where you don't
9 agree with the State's characterization of the
10 information you gave Phil Ciotti, correct?

11 A. Correct.

12 Q. After you saw how the information you gave him
13 had been conveyed by the State in the -- in the
14 charging documents in this case, did you call Phil
15 Ciotti or anybody else at the State to tell them that
16 they had misrepresented what you said?

17 A. Yes.

18 Q. Who did you call?

19 A. Phil Ciotti.

20 Q. When did you do that?

21 A. When I was in Maine.

22 Q. Okay. And you were in Maine at the time
23 Dr. Chase's license was suspended, correct?

24 A. Yes.

25 Q. Do you remember the dates you were in Maine

1 specifically?

2 A. The last week of July, first week of August.

3 Q. So you called Phil Ciotti from Maine?

4 A. Yes.

5 Q. What did you say to him?

6 A. I said that I believe that the information was
7 inaccurate. Because I'd only heard it on the news,
8 though, from my mother-in-law's, calling her at
9 6 o'clock at night. Said that I was very upset that
10 it didn't seem like anybody else had been spoken to
11 with what I had heard, and he said that -- that
12 everything was going to be okay and we would talk when
13 I got back.

14 Q. Did you tell him during that conversation which
15 portions of what you had heard were inaccurate?

16 A. No. I didn't know much.

17 Q. You just told him that part of -- much of what
18 you heard had -- was inaccurate?

19 A. I didn't know much.

20 Q. But you didn't know what portions of it were
21 inaccurate?

22 A. Right.

23 Q. When you got back, did you talk with Phil Ciotti
24 again?

25 A. Yes. I believe so.

1 Q. When was that?

2 A. Maybe a week later.

3 Q. Where did that take place?

4 A. At my house.

5 Q. Did he come to your house again?

6 A. No. Just a phone call, making sure that I was
7 okay.

8 Q. Did he call you?

9 A. Yes.

10 Q. By that point had you been able to see the -- did
11 you have more accurate information about what had been
12 included in the State's charging documents?

13 A. I read the newspapers.

14 Q. And did you tell him with any more specificity
15 which portions of the testimony attributed to you were
16 inaccurate?

17 A. No. I don't believe so.

18 Q. Did he ask you -- did he follow up on your
19 earlier conversation and ask you which portions of the
20 testimony attributed to you were inaccurate?

21 A. No.

22 Q. What else do you remember about the telephone
23 conversation with him that time?

24 A. Nothing much. Just that -- he was just making
25 sure that if I needed anything, that I could just call

1 him.

2 Q. Did he ask you anything more about the substance
3 of the allegations?

4 A. No.

5 Q. And did you tell him anything more about the
6 substance of the allegations?

7 A. No.

8 Q. How long was the conversation?

9 A. Ten minutes?

10 Q. Did you reiterate to him that you were upset that
11 you were featured so prominently in --

12 A. Yes.

13 Q. And what was his reaction?

14 A. That it -- that's just the way that it was -- had
15 to be done. I don't remember his exact words.

16 Q. I'm going to show you what we've marked as Landry
17 Deposition Exhibit 4. Have you seen this before?

18 A. Yes.

19 Q. Is this the statement that you signed for Phil
20 Ciotti during that first meeting you had with him at
21 your house?

22 A. Yes.

23 Q. Have you signed any other statement for the
24 Medical Practice Board since this?

25 A. No.

- 1 Q. Is this your handwriting?
- 2 A. No.
- 3 Q. Whose handwriting is this?
- 4 A. Phil Ciotti's.
- 5 Q. Did he write this while he was talking with you?
- 6 A. Yes.
- 7 Q. Are these your initials at the bottom of the
- 8 first, second, and third page and your signature at
- 9 the bottom of the fourth?
- 10 A. Yes.
- 11 Q. Did Mr. Ciotti ask you to sign it?
- 12 A. Yes.
- 13 Q. Did he allow you to review it before signing it?
- 14 A. Yes.
- 15 Q. Did you read it?
- 16 A. Yes.
- 17 Q. Did he ask you if this was accurate?
- 18 A. I don't remember.
- 19 Q. Did you tell him when you read it that certain
- 20 portions of this did not accurately represent what you
- 21 had said to him?
- 22 A. Yes.
- 23 Q. I'm sorry?
- 24 A. Yes.
- 25 Q. And what was his response to that?

1 A. That this was his notes and that it was okay,
2 that he was taking down the notes.

3 Q. Just so I understand, he took these notes while
4 you were talking, correct?

5 A. Yes.

6 Q. At the end of the interview he asked you to read
7 and sign this, correct?

8 A. Yes.

9 Q. And upon reading it, you told him that portions
10 of it did not accurately represent what you told him,
11 correct?

12 A. Correct.

13 Q. And upon telling him that, he told you, Don't
14 worry about it; sign it anyway; this is just for my
15 notes?

16 A. Not in that --

17 MR. WINN: Object to the form.

18 Q. What did he say as best you can recall?

19 A. That -- that he was taking down notes as he wrote
20 and that it was okay, that, you know, I didn't have to
21 worry about it being accurate -- exactly to my
22 wording, I believe.

23 Q. Did he tell you that this was a sworn statement
24 that could be used as evidence later?

25 A. I don't believe so.

1 Q. Did you understand given what he told you that
2 this was a sworn statement that could be used as
3 evidence later?

4 A. No.

5 Q. Did you instead understand that this was just for
6 his note-keeping purposes?

7 A. That's what I believe.

8 Q. And you believe that based on what he told you?

9 A. I believe so.

10 Q. When you told him that this wasn't accurate in
11 certain respects, did you tell him the respects in
12 which it was not accurate?

13 A. Well, I picked out some words, like "crafted" and
14 "scripted," and that's when he said that they were
15 just his notes.

16 Q. So he didn't ask you to tell him any other places
17 where you thought it might be inaccurate?

18 A. No.

19 Q. I'm going to ask you to turn to Page 2 of this,
20 please. The first full paragraph on that page, which
21 begins, "At the point," do you see that?

22 A. Yup.

23 Q. The next full sentence says, He goes over the
24 chart. If the CST with BAT isn't bad, he'll ask the
25 tech to do another CST with BAT, and the eyes are

1 already now dilated.

2 Did I read that right?

3 A. Yup. Yes.

4 Q. How often did you sit in the exam room with
5 Dr. Chase?

6 A. Not often.

7 Q. How many times per week were you sitting in the
8 exam room with him?

9 A. It varied.

10 Q. From what to what?

11 A. Well, depending on what other people were doing,
12 but probably, I don't know, five or six times a week,
13 maybe.

14 Q. And in an average week, about how many patients
15 did he examine, do you think, on average?

16 A. I don't have any idea.

17 Q. Hundreds?

18 A. Maybe, yeah.

19 Q. During the examination Dr. Chase would examine
20 the patient's eyes through the slit lamp, correct?

21 A. Um-hum. Yes.

22 Q. And if what he saw when he looked through the
23 slit lamp didn't jive with the results of the prior
24 CST with BAT test, he would sometimes ask the tech or
25 the scribe to reperform the CST with BAT test; is that

1 right?

2 A. Yes.

3 MR. WINN: Object to the form.

4 Q. Is it correct, then, to say, as is written down
5 here by Mr. Ciotti, that if the CST with BAT isn't
6 bad, he'll ask the tech to do another CST with BAT?

7 A. Yes.

8 Q. What do you mean by that?

9 A. What I mean is that if you're in the room with
10 him as the scribe at that time, if he looks at the
11 chart, there's times where he would go and look at the
12 chart, look at the Snellen, look at the CST with BAT
13 results, and turn around and say to the scribe, Do
14 another CST with BAT.

15 Q. This is before examining the patient's eyes or
16 after?

17 A. Sometimes after; sometimes before.

18 Q. Okay. Are --

19 A. Sometimes he would just go in the room and look
20 at the chart and say we need another CST with BAT.
21 Sometimes he would be leaning into the slit lamp and
22 change his mind and say he needed to do a CST with
23 BAT, another one.

24 Q. So in this paragraph we're reading, you talk
25 about when CST with BAT was performed and then it was

1 reperformed, and then at the end of the paragraph it
2 says, He takes these results and records it under the
3 visual acuity.

4 Now, when you say "these results," do you
5 mean the CST with BAT results or the results of the
6 second CST with BAT or the result of the first CST
7 with BAT, or do you know?

8 A. The results of the second CST with BAT.

9 Q. Okay. Do you know that the results of the second
10 CST with BAT were the ones recorded in the chart
11 rather than the first CST with BAT test?

12 A. Yes.

13 Q. Now, am I correct that you actually witnessed him
14 reperform -- or witnessed him order the CST with BAT
15 test reperformed on just one or two occasions?

16 A. Yes.

17 Q. So everything you've said in this paragraph is
18 based on those one or two occasions when you were in
19 the exam room at the time he ordered a second CST with
20 BAT?

21 A. Yes.

22 Q. On those one or two occasions did he ask that the
23 test be reperformed before or after he looked into
24 their eyes through the slit lamp?

25 A. I don't know.

1 Q. So based on your personal knowledge, you don't
2 know whether or not he had the CST with BAT results
3 reperformed before or after he examined the patient's
4 eyes?

5 A. I can't remember.

6 Q. The next paragraph says, So now he just starts
7 leaning into a slit lamp exam and he starts saying,
8 "Dense central nuclear cataract OU" to the scribe.
9 This is before he can even see anything, exclamation
10 point.

11 Did you tell Phil Ciotti that Dr. Chase
12 diagnosed people with cataracts before he looked into
13 the slit lamp?

14 A. No.

15 Q. Is this one of the things that when you read it
16 it jumped out at you as being inaccurate?

17 A. Yes.

18 Q. Did you tell Phil Ciotti that?

19 A. Yeah -- I don't know.

20 Q. You don't know if this is among the things that
21 you pointed out in particular; is that right?

22 A. No. Because I didn't read this -- well, the -- I
23 don't remember the day, but I didn't read this -- this
24 is the second or third time that I've actually read
25 this, so -- so I just can't remember.

1 Q. Did you ever see Dr. Chase diagnose a patient
2 with cataracts before examining their eyes with the
3 slit lamp?

4 A. No.

5 Q. Did you say this emphatically such that it would
6 warrant anything about this -- emphatically such that
7 it would warrant quoting you and putting an
8 exclamation point at the end?

9 A. I believe what I said is that I feel that he
10 starts leaning into the slit lamp and will say dense
11 central nuclear cataracts OU before he could truly see
12 anything. It was my perception, my belief. It wasn't
13 that I factually knew that.

14 Q. So you believed that although he was already
15 looking into the slit lamp --

16 A. Leaning into it, yes.

17 Q. -- he -- let me -- I want to make sure --

18 A. I'm sorry.

19 Q. -- I get this accurate.

20 A. I'm sorry.

21 Q. You believe that although he was already looking
22 through the slit lamp, he was not yet in a position to
23 honestly diagnose these patients with cataracts?

24 A. Yes.

25 Q. And what is the basis for that belief?

1 A. Because there's so much of a gap between the
2 lens -- the slit lamp and his -- his eyes. I just
3 couldn't understand how he could actually see
4 something. But that's my belief.

5 Q. Can you flip to Page 3 of this. This first
6 paragraph talks -- begins by talking about how you
7 believe there was a push to fill the surgical
8 schedule --

9 A. Yes.

10 Q. -- in the OR. And then it ends by saying, Prior
11 to that, prior to the time the surgical schedule was
12 filled, it seems every patient, and every is in all
13 caps, in the target group gets told they have
14 cataracts.

15 Did you tell Phil Ciotti that you thought
16 every patient over the age of 35 or 45 was told they
17 had cataracts until the surgical schedule was filled?

18 A. I believe so.

19 Q. Now, the diagnosis for cataracts only -- takes
20 place in the exam room, correct?

21 A. Yes.

22 Q. And you said earlier that you were only in the
23 exam room with Dr. Chase on average five times a week;
24 is that right?

25 A. Yes.

1 Q. And so you can't say that every patient in the
2 target group gets told they have cataracts until the
3 surgical schedule is filled from personal knowledge,
4 can you?

5 A. Well, you would see patients coming out of the
6 rooms being told they had cataracts and being walked
7 over to the surgery scheduling room.

8 Q. Did you work with or see every patient that came
9 through the office?

10 A. No.

11 Q. Two paragraphs down begins with the sentence, I
12 know he operates unethically.

13 Did you tell Phil Ciotti, "I know
14 Dr. Chase operates unethically"?

15 A. I believe so. I don't know. I think so.

16 Q. Did you tell Phil Ciotti that you knew he did or
17 that it was your belief that he did?

18 A. I don't know. I -- I believe I said that I know,
19 because I was feeling it, but --

20 Q. But do you know?

21 A. No.

22 Q. The paragraph goes on to talk about how you and
23 the other techs would vent to Dr. DeVita and try to
24 steer patients to him and that you went to talk to
25 Stephen Green to get this to stop -- that Dr. DeVita

1 went to Stephen Green --

2 A. Right. Right. Yes.

3 Q. -- to get this to stop. Did you -- so you
4 brought your concerns regarding Dr. Chase's practices
5 with cataract patients to Dr. DeVita's attention?

6 A. Yes.

7 Q. And you believe that Dr. DeVita talked to Stephen
8 Green about that?

9 A. Absolutely.

10 Q. Did you talk directly to Stephen Green about
11 that?

12 A. No.

13 Q. It also says, We brought the concerns to his wife
14 because she is the CEO. Do you see that?

15 A. Yes.

16 Q. Did you tell that to Phil Ciotti?

17 A. No.

18 Q. Did you bring your concerns regarding Dr. Chase's
19 practices with cataract patients to Brianne Chase's
20 attention?

21 A. No.

22 Q. You did go to her with your concerns about how
23 Dr. Chase treated you?

24 A. Absolutely.

25 Q. But you never went to her with your concerns

1 about Dr. Chase's medical practices?

2 A. No.

3 Q. And you didn't tell Phil Ciotti that you did
4 that?

5 A. No.

6 Q. And when you go on to say that she said he's set
7 in his ways and she's made him come to apologize,
8 you're talking about how he treated you and the other
9 staff there?

10 A. Yes.

11 Q. You're not talking about his practices with
12 cataract patients?

13 A. No.

14 Q. Was this one of the inaccuracies you brought to
15 Phil Ciotti's attention during any of your
16 conversations?

17 A. I don't know.

18 Q. Okay. When you told -- and Phil Ciotti didn't
19 ask you -- when you told him that portions of this
20 were inaccurate, he didn't ask you whether this
21 portion was accurate?

22 A. No.

23 Q. Turn to the next page. You're ahead of me.

24 A. I watched you.

25 Q. About two-thirds of the way down the page there's

1 a paragraph that says, On so and so's chart. Is that
2 chart?

3 A. Yes.

4 Q. On chart, I saw where he
5 fudged the Snellen and CST with BAT results.

6 A. Okay.

7 Q. When you said that, what did you mean when you
8 say he fudged them? First, let me back up.

9 Did you tell Phil Ciotti that you thought
10 Dr. Chase had "fudged" the Snellen and CST with BAT
11 results on chart?

12 A. Yes.

13 Q. Okay. And when you said that, did you mean that
14 he had placed the CST with BAT results in the portion
15 of the chart --

16 A. Yes.

17 Q. -- that has a V on it for visual acuity?

18 A. Yes.

19 Q. Did you mean anything other than that when you
20 said that he fudged the Snellen and CST with BAT
21 results?

22 A. No.

23 Q. You didn't work on -- you didn't treat
24 , did you?

25 A. No.

1 Q. And you had no -- you took no part in providing
2 her diagnosis or care during her visit, correct?

3 A. No.

4 Q. So you were not --

5 A. Oh, sorry. Yes. Correct.

6 Q. Yes, correct, you did not take part in it?

7 A. Right.

8 Q. And so you were not in a position to say whether
9 the tests were performed properly, correct?

10 A. Correct.

11 Q. You weren't in a position to say whether the
12 tests were performed before or after dilation,
13 correct?

14 A. Correct.

15 Q. And you weren't in a position to say whether or
16 not they were transcribed accurately from either a
17 Post-it or a CST with BAT sheet onto the chart itself?

18 A. Correct.

19 Q. All you were telling Phil Ciotti was that as far
20 as you could tell, the number written in the first box
21 in the chart was not Snellen but was instead CST with
22 BAT?

23 A. Correct.

24 Q. It goes on to say, Dr. Chase wrote that she
25 wanted cataracts removed when she did not.

1 Did you tell Phil Ciotti that?

2 A. That is what Dr. Chase wrote down even when not
3 talking to the patient, so he would write that down
4 ahead of time. When he said that the patient has
5 cataracts, he'll write down, Patient wants cataract
6 surgery, can't see to drive, or whatever.

7 Q. Let me back up just so I understand what you knew
8 and what you told Mr. Ciotti and whether that's
9 accurately reflected here.

10 You were not in the room when Dr. Chase
11 diagnosed as having cataracts, correct?

12 A. Correct.

13 Q. And you weren't in -- you didn't play any part in
14 her care, and so you did not witness any interactions
15 between her and Dr. Chase; is that right?

16 A. Correct.

17 Q. And what you told -- and again, correct me if I'm
18 wrong here. I'm just trying to understand. And you
19 told Mr. Ciotti that Dr. Chase would often -- would
20 sometimes write in the chart that the patient wanted
21 cataracts removed even when the patient hadn't
22 actually said that; is that right?

23 A. Correct.

24 Q. But you didn't tell Phil Ciotti that Dr. Chase
25 told that she wanted her cataracts

1 removed when she did not, because you couldn't have
2 known that, right?

3 A. Correct.

4 Q. Did you point this out as one of the inaccuracies
5 with --

6 A. Yes.

7 Q. You did. You pointed this specifically out to
8 Phil Ciotti?

9 A. I'm sorry. No, I did not. I thought you meant
10 in the chart when looking over her chart.

11 Q. I see. You pointed out the location of the CST
12 with BAT results to Phil Ciotti specifically?

13 A. Yes.

14 Q. Okay. And even though you told Phil Ciotti that
15 portions of this statement were inaccurate, you didn't
16 have an opportunity to tell him about this statement
17 in particular?

18 A. I don't know if I did. I don't believe so.

19 Q. But it's not accurate to say that you told him,
20 Dr. Chase wrote that wanted cataracts
21 removed when she did not?

22 A. I can't honestly answer that.

23 Q. But you couldn't have known that, correct?

24 A. Correct.

25 Q. And you wouldn't have told Phil Ciotti something

1 you didn't know, presumably.

2 A. Correct.

3 Q. The last thing I want to cover on this is the
4 last paragraph, which says, Another concern that I've
5 had is I've seen on at least two occasions he removed
6 lesions or cysts on eyelids, and then you go on to say
7 that he didn't send these for -- to pathology, and you
8 thought that was inappropriate.

9 A. Correct.

10 Q. How often were you -- did you work in the OR?

11 A. That was one of my main things that I did in the
12 beginning, so I don't know. I -- maybe you have
13 something.

14 Q. I truly am asking.

15 A. I don't know. I did every surgery day for, I
16 don't know, two or three months.

17 Q. And then --

18 A. Maybe more.

19 Q. -- at some point you phased out of that, correct?

20 A. Yes.

21 Q. And is that because you and Dr. Chase were not
22 working well together in the OR?

23 A. Correct. Yes.

24 Q. And I take it that he wasn't happy with your
25 performance in there, and you weren't happy with being

1 Q. Hearing care.

2 A. Correct.

3 Q. I want to make sure that you and I have covered
4 together today all of the concerns that you grew to
5 have about Dr. Chase's practice while you were there.
6 First you had concerns about the way he treated you on
7 an interpersonal --

8 A. Correct.

9 Q. -- level? You had concerns about the Post-its?

10 A. Correct.

11 Q. And your concern about the Post-its was not that
12 the information was being recorded inaccurately but
13 that it allowed Dr. Chase to place a glare test number
14 in the space that you believe should have been
15 reserved for Snellen vision?

16 A. Correct.

17 Q. And that's -- does that accurately describe the
18 nature of your concern regarding the Post-its?

19 A. Sure.

20 Q. You had concerns about retesting CST with BAT
21 after dilation?

22 A. Correct.

23 Q. And your concern there is that the test results
24 were worse after dilation?

25 A. Correct.

1 Q. You had concerns about him pressuring people into
2 surgery?

3 A. Correct.

4 Q. And we've -- have we covered today all the ways
5 you felt he pressured people into surgery?

6 A. Yes.

7 Q. You had concerns that on one or two occasions he
8 didn't send a cyst or a lesion to the lab for testing?

9 A. Correct.

10 Q. Have I missed anything?

11 A. I don't believe so.

12 Q. Before coming here today, you spoke with Attorney
13 Winn?

14 A. Correct.

15 Q. How long did you meet with him?

16 A. Forty minutes?

17 Q. Where did you meet with him?

18 A. At the office building at -- I don't know the
19 name of it, but it's by CCV. Same building.

20 Q. The Medical Practice Board's office?

21 A. Yes.

22 Q. Tell me about the nature -- tell me about the
23 conversation you had with him.

24 A. It was very brief. It was -- he showed me the
25 list of names and told me that you would probably be

1 bringing them up. I could not recall them then,
2 cannot recall them now. And he just told -- told me
3 we were going to walk down together. Nothing major.
4 Q. For the other 35 minutes of the 40 minutes, what
5 did you talk about?
6 A. I don't -- I mean, we really didn't talk about
7 much at all. I read over -- I spent most of my time
8 reading this over.
9 Q. What's that?
10 A. Hold on. I'm trying to find it.
11 Q. Sorry.
12 A. Exhibit 4.
13 Q. Exhibit 4 is the statement that you signed that
14 Phil Ciotti wrote for you?
15 A. Correct. And I just told him what I felt was
16 inaccurate about that, but that was it.
17 Q. What did Mr. Winn say when you told him that you
18 thought portions of that were inaccurate?
19 A. He just had me write them down, write down what I
20 felt was inaccurate. That was it.
21 Q. What else did you guys talk about?
22 A. I believe that's it.
23 Q. Did he give you any advice about how to answer
24 questions?
25 A. Yes.

1 Q. What did he say?

2 A. Just told me that just answer the answers the
3 correct way and answer them the way that you -- answer
4 them to the point.

5 Q. Answer them what?

6 A. To the point.

7 Q. Did he ask you not to be expansive in your
8 answers?

9 A. He didn't tell me that. He just said answer to
10 the point.

11 Q. I'm trying to understand what that means when you
12 say "answer to the point."

13 A. Answer what you're asking.

14 MR. MILLER: I think that's all I have,
15 believe it or not.

16 MR. WINN: I just have a few questions.

17 EXAMINATION

18 BY MR. WINN:

19 Q. You indicated that you thought the word spiel was
20 inaccurate in your statement. Did you discuss with
21 Mr. Ciotti anything about Dr. Chase's interaction with
22 patients?

23 A. Yes.

24 Q. What -- what did you tell him?

25 A. I told him that I felt that patients often didn't

1 understand, that he mumbled when talking a lot, and
2 that I felt that he said the same things about
3 cataract surgeries.

4 Q. So that -- did you say anything about the nature
5 of his statement as it related to patient -- to those
6 cataract patients in general? Let me rephrase that.

7 Did you -- did you say any -- give me your
8 understanding of the definition of the word spiel.
9 Did you say anything to Mr. Ciotti that would -- that
10 would support his use of that word, in your
11 understanding?

12 A. Yes.

13 Q. Can you tell me exactly what you told him?

14 A. I told him that he -- that he would say the same
15 thing about the cataracts, that you could walk into
16 the bank and walk out and that it wasn't a ball
17 bearing, that speech that he had to patients about
18 cataracts.

19 Q. And you objected to the use of the word "script"
20 in the report.

21 A. Correct.

22 Q. In reference to the index card.

23 A. Correct.

24 Q. Was there any relationship between the index card
25 and the -- and the discussion that Mr. -- that

1 Dr. Chase had with his patients regarding cataract
2 surgery?

3 A. Yes.

4 Q. What was the connection?

5 A. You wrote down what he was -- the points of what
6 he was saying.

7 Q. So that -- so that the points in that script --
8 or in that index card indicated the things Dr. Chase
9 would say to cataract patients?

10 A. Correct.

11 Q. And you also objected to the use of the word
12 "craft" records?

13 A. Correct.

14 Q. But you also testified that you believed results
15 of this -- of the contrast sensitivity testing were
16 put in the -- in the wrong area of the record,
17 correct?

18 A. Yes.

19 Q. And why do you think that was done?

20 A. I feel that it was so that the chart appeared to
21 have -- the person appeared to have worse vision than
22 what they had.

23 MR. WINN: Okay. That's all I have.

24 / / /

25 / / /

EXAMINATION

BY MR. MILLER:

Q. You said patients -- in your opinion patients often didn't understand what Dr. Chase was saying.

A. Correct.

Q. Do you base that on the same confused look that we talked about earlier?

A. Well, some patients would say things out in the dilation area or something. They would be talking amongst each other, and you would hear them talking about things like that.

Q. Did you bring this potential confusion to Dr. Chase's attention?

A. No.

Q. You said that sometimes he mumbled?

A. Yes.

Q. Does that -- the fact that he mumbled -- strike that.

You said that he said a lot of the same things about cataracts to all the patients whom he diagnosed with cataract surgery.

A. Correct.

Q. Does that make sense to you, that a doctor would say many of the same things to each patient who have the same symptoms -- the same disease?

1 A. Yes.

2 Q. Do you agree that there's a value to making sure
3 that each patient knows all the same risks and
4 potential benefits from surgery?

5 A. Yes.

6 Q. And it would be a problem if each patient got
7 different information about the same type of surgery?

8 A. Correct.

9 MR. MILLER: That's all I have.

10 MR. WINN: No more.

11 (The deposition concluded at 2:07 p.m.)
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SIGNATURE OF DEPONENT

I, the undersigned, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with any corrections so noted on the errata sheet.

Date:

2/7/042/10/04Amy M. Landry

Amy M. Landry

Amy M. LandrySTATE OF Vermont COUNTY OF Chittenden

Subscribed and sworn to before me this 10th
day of February, 20 04.

Carolyn Oliver

NOTARY PUBLIC

My commission expires: 2/10/07

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C E R T I F I C A T E

I, Johanna Masse, Court Reporter and
Notary Public, do hereby certify that the foregoing
pages, numbered 3 through 208, inclusive, are a true
and accurate transcription of my stenographic notes of
the Deposition of Amy M. Landry, taken before me on
Monday, December 22, 2003, commencing at 9:29 a.m.,
for use in the matter of David S. Chase, M.D., Docket
No. MPC 15-0203, as to which a transcript was duly
ordered.


JOHANNA MASSE, RMR, CRR